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THE CARSWELL COMPANY LIMITED

THE
REVISED STATUTES

5-5-88

OF

ONTARIO, 1914,

BEING A

REVISION AND CONSOLIDATION OF THE REVISED STATUTES
OF ONTARIO, 1897, AND THE SUBSEQUENT PUBLIC
GENERAL ACTS

OF THE

LEGISLATURE OF ONTARIO.

VOL. II.



TORONTO:

PRINTED BY L. K. CAMERON,

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY,

1914

THE
REVISED STATUTES

ONTARIO, 1914.

BEING A
REVISION AND CONSOLIDATION OF THE REVISED STATUTES
OF ONTARIO, 1887, AND THE SUBSEQUENT PUBLIC
GENERAL ACTS

OF THE

WARWICK BROS. & RUTTER, LIMITED,
Printers and Publishers,
Toronto.

VOL. II.

STATS CAN
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TORONTO
1914

THE REVISED STATUTES OF ONTARIO, 1914

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COMPANIES AND CORPORATIONS.

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An Act respecting Joint Stock and other
Companies.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Companies Act*. Short title.
2 Geo. V. c. 31, s. 1.

2. In this Act, Interpreta-
tion.

- (a) "Company" shall mean a company having a capital divided into shares; "Company."
- (b) "Corporation" shall include a company whether with or without share capital; "Corpora-
tion."
- (c) "Private company" shall mean a company as to which by Special Act, Letters Patent or Supplementary Letters Patent "Private
company."
- (i.) The right to transfer its shares is restricted,
- (ii.) The number of its shareholders, exclusive of persons who are in the employment of the company, is limited to fifty, two or more persons holding one or more shares jointly being counted as a single shareholder, and
- (iii.) Any invitation to the public to subscribe for any shares, debentures, or debenture stock of the company is prohibited;
- (d) "Public Company" shall mean a company not being a Private Company within the meaning of clause c. 2 Geo. V. c. 31, s. 2. "Public
company."

PART I.

INCORPORATION, RE-INCORPORATION, AMALGAMATION.

What corporations may be incorporated by letters patent.

3. The Lieutenant-Governor may, by Letters Patent, grant a charter to any number of persons, not less than five, of the age of twenty-one years, who petition therefor, constituting such persons and any others who have become subscribers to the memorandum of agreement hereinafter mentioned and persons who thereafter become shareholders or members in the corporation thereby created a corporation for any of the purposes to which the authority of this Legislature extends, except those of railway and incline railway and street railway companies, insurance corporations within the meaning of *The Ontario Insurance Act*, and corporations within the meaning of *The Loan and Trust Corporations Act*. 2 Geo. V. c. 31, s. 3.

Exceptions.

Rev. Stat. cc. 183, 184.

Powers of Provincial Secretary.

4. The Provincial Secretary may, under the seal of his office, have, use, exercise and enjoy any power, right or authority conferred by this Act on the Lieutenant-Governor but not those conferred on the Lieutenant-Governor in Council. 2 Geo. V. c. 31, s. 4.

Incorporation with share capital.

5.—(1) The applicants for the incorporation of a company may petition the Lieutenant-Governor for the grant of a Charter.

Contents of petition.

(2) The petition, Form 1, shall show:

- (a) The proposed name of the company;
- (b) The objects for which the company is to be incorporated;
- (c) The place within Ontario where the head office of the company is to be situate;
- (d) The amount of the capital of the company, the number of shares, and the amount of each share;
- (e) The name in full, the place of residence and the calling of each of the applicants;
- (f) The names of the applicants, not less than three, who are to be the provisional directors of the company.

Memorandum of agreement.

(3) The petition shall be accompanied by a memorandum of agreement in duplicate, Form 2, signed by the petitioners.

Petitioners to be *bona fide* holders of shares.

(4) Each petitioner shall be a *bona fide* subscriber in his own right for the share or shares which by the memorandum of agreement he agrees to take.

Prayer for insertion of special clauses.

(5) The petition may ask to have embodied in the Letters Patent any provision which under this Act might be embodied in a by-law of the company. 2 Geo. V. c. 31, s. 5.

6.—(1) The applicants for the incorporation of a corporation not having share capital may petition the Lieutenant-Governor for the grant of a Charter. Incorporation without share capital.

(2) The petition, Form 3, shall show:

Contents of petition.

- (a) The proposed name of the corporation;
- (b) The objects for which the corporation is to be incorporated;
- (c) The place within Ontario where the head office of the corporation is to be situate;
- (d) The name in full, the place of residence and the calling of each of the applicants;
- (e) The names of the first directors of the corporation.

(3) The petition shall be accompanied by a memorandum of agreement in duplicate, Form 4, signed by the petitioners setting out such regulations as may be deemed expedient for: Memorandum of agreement.

- (a) The election of members, trustees, directors and officers;
- (b) The holding of meetings of members, trustees and directors;
- (c) The establishment of branches;
- (d) The payment of directors, trustees, officers and employees; and
- (e) The control and management of the affairs of the corporation.

(4) The memorandum shall be expressed in separate paragraphs numbered consecutively, and the petitioners may adopt all or any of the provisions of Form 4 or may substitute others therefor. 2 Geo. V. c. 31, s. 6. Form of.

7. In so far as the Letters Patent and Supplementary Letters Patent do not exclude or modify the regulations in Form 4, those regulations shall, so far as practicable, be the regulations of a corporation not having share capital in the same manner and to the same extent as if they were contained in the Letters Patent or Supplementary Letters Patent. 2 Geo. V. c. 31, s. 7; 3-4 Geo. V. c. 18, s. 33 (1). Effect of regulations in memorandum.

8. The Lieutenant-Governor on an application for Letters Patent or Supplementary Letters Patent may give to the corporation a name different from its proposed or existing name, as the case may be, and may vary the objects or other provisions or terms stated in the petition or memorandum of agreement. 2 Geo. V. c. 31, s. 8; 3-4 Geo. V. c. 18, s. 33 (2). Change of name or terms of application.

9. A corporation without share capital heretofore or hereafter incorporated, with the consent in writing of all its members, may by by-law provide for the creation of a capital divided into shares and for the allotment and payment of Creation of capital of corporation not already having share capital.

such shares and may fix and prescribe the rights and privileges of the shareholders; but no such by-law shall take effect until confirmed by Letters Patent or by Supplementary Letters Patent. 2 Geo. V. c. 31, s. 9; 3-4 Geo. V. c. 18, s. 33 (3).

Amalgamation
of corpora-
tions.

10.—(1) Any two or more corporations to which this Act applies having the same or similar objects within the scope of this Act, may, in the manner herein provided, amalgamate and may enter into all contracts and agreements necessary to such amalgamation. 2 Geo. V. c. 31, s. 10 (1).

Joint agree-
ment between
directors pro-
posing to
amalgamate,
etc.

(2) The corporations proposing to amalgamate may enter into a joint agreement for the amalgamation prescribing the terms and conditions thereof, the mode of carrying the same into effect, and stating the name of the new corporation, the names, callings, and places of residence of the first directors thereof and how and when the subsequent directors shall be elected, with such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and working of the new corporation, and in cases of companies the number of shares of the capital, the par value of each share, and the manner of converting the share capital of each of the companies into that of the new company. 2 Geo. V. c. 31, s. 10 (2); 3-4 Geo. V. c. 18, s. 33 (4).

Submission to
shareholders
or members
of each
corporation.

(3) The agreement shall be submitted to the shareholders or members of each of the corporations at a general meeting thereof called for the purpose of taking the same into consideration.

Consideration
of agreement
and certificate
of adoption.

(4) At such meetings of shareholders or members the agreement shall be considered, and if two-thirds of the votes of all the shareholders or members of each of such corporations are for the adoption of the agreement that fact shall be certified upon the agreement by the secretary of each of such corporations under the corporate seal thereof.

Petition for
confirmation
by letters
patent.

(5) Thereupon the several corporations by their joint petition may apply to the Lieutenant-Governor for Letters Patent confirming the agreement, and on and from the date of the Letters Patent the corporations shall be deemed and taken to be amalgamated and to form one corporation by the name in the Letters Patent provided, and the corporation so incorporated shall possess all the property, rights, privileges and franchises and be subject to all the liabilities, contracts, disabilities and duties of each of the corporations so amalgamated. 2 Geo. V. c. 31, s. 10 (3-5).

Re-incorpora-
tion of
corporation.

11. A corporation incorporated for purposes or objects within the scope of this Act, whether under a special or general Act, and being at the time of its application a subsisting and valid corporation, may apply for Letters Patent under this Act; and the Lieutenant-Governor may grant

Letters Patent incorporating the shareholders or members of the corporation as a corporation under this Act. 2 Geo. V. c. 31, s. 11.

12. Where an existing corporation applies for the issue of Letters Patent under the provisions of the next preceding section, the Lieutenant-Governor may, by Letters Patent, limit the powers of the corporation or extend them to such other objects, within the scope of this Act, as the applicant desires, name the first directors of the new corporation and give to it the name of the old corporation or any other name. 2 Geo. V. c. 31, s. 12.

Extension of
powers on re-
incorporation.

13. All rights of creditors against the property, rights and assets of a corporation amalgamated or re-incorporated under the provisions of this Act, and all liens upon its property, rights and assets shall be unimpaired by such amalgamation, or re-incorporation, and all debts, contracts, liabilities and duties of such corporation shall thenceforth attach to the new or re-incorporated corporation and may be enforced against it to the same extent as if such debts, contracts, liabilities and duties had been incurred or contracted by it. 2 Geo. V. c. 31, s. 13.

Rights of
creditors
preserved.

14. A private company may be converted into a public company by Supplementary Letters Patent if

Conversion of
private com-
pany into a
public
company.
Resolution
therefor.

(a) A resolution determining that it is expedient that the company should be so converted is passed by a two-thirds vote of the shareholders at a general meeting of the company called for the purpose of considering the resolution, and

(b) The company files with the Provincial Secretary such a statement in lieu of a prospectus as the company, if a public company, would have had to file before allotting any of its shares or debentures or a prospectus together with such a statutory declaration as the company if a public company would have had to file before commencing business. 2 Geo. V. c. 31, s. 14; 3-4 Geo. V. c. 18, s. 33 (5).

Filing state-
ment, etc.

15.—(1) Where a corporation has ceased to carry on business except for the purpose of winding up its affairs and has no debts or obligations that have not been provided for or protected the directors may pass by-laws for distributing the assets of the corporation or any part of them among the shareholders.

Distribution
of assets on
ceasing
to carry on
business.

(2) The by-law shall not take effect unless or until it is confirmed by a two-thirds vote of the shareholders present in person or by proxy at a general meeting duly called for considering the same and by the Lieutenant-Governor in Council. 2 Geo. V. c. 31, s. 15.

Conditions.

Supplementary letters patent for certain purposes.

16.—(1) The directors of a corporation may pass a by-law authorizing an application to the Lieutenant-Governor for the issue of Supplementary Letters Patent providing for—

Varying capital stock.
Re-dividing shares.

- (a) Increasing or decreasing the capital;
(b) Re-dividing the capital of the corporation into shares of smaller or larger amount;

Varying powers.

- (c) Limiting the powers of the corporation or extending them to such objects within the scope of this Act as the corporation may desire;

Varying borrowing powers.

- (d) Limiting or increasing the amount which the corporation may borrow upon debentures or otherwise;

Amending charter.

- (e) Varying any provision contained in the special Act or Letters Patent or Supplementary Letters Patent;

Making other provisions.

- (f) Any other matter or thing in respect of which provision might have been made had the corporation been incorporated under this Act. 2 Geo. V. c. 31, s. 16 (1).

Confirming by-law.

(2) The application shall not be made until the by-law has been confirmed, in the case of a company, by a vote of the shareholders present or represented by proxy, at a general meeting duly called for considering the same, and holding not less than two-thirds of the issued capital stock represented at such meeting or, in the case of a corporation not having share capital, by a vote of two-thirds of the members so present or represented as the case may be. 2 Geo. V. c. 31, s. 16 (2); 3-4 Geo. V. c. 18, s. 33 (6).

Increase of capital.

(3) The capital shall not be increased until ninety per centum of the authorized capital has been subscribed and fifty per centum paid thereon.

Rights of creditors preserved.

(4) On a reduction of the capital of a company the liability of shareholders to persons who at the time of such reduction are creditors shall remain as though the reduction had not been made. 2 Geo. V. c. 31, s. 16 (3-4).

Sufficiency of material to be established.

17. Before Letters Patent or Supplementary Letters Patent are issued the applicants shall establish to the satisfaction of the Provincial Secretary the sufficiency of the petition, memorandum of agreement, by-laws, resolution and all documents filed on such application, and shall furnish such evidence of the *bona fides* of the application as he may deem necessary. 2 Geo. V. c. 31, s. 17.

Proofs of matters under this Act.

18. The Provincial Secretary, or any officer to whom the application may be referred, may take evidence under oath. 2 Geo. V. c. 31, s. 18.

19. The Letters Patent or Supplementary Letters Patent may impose any conditions with respect to the by-laws of a corporation or any amendments thereof, and in such event the corporation shall not carry on its undertaking, or any part thereof, nor shall the by-laws be of any force or validity until the conditions so imposed are complied with. 2 Geo. V. c. 31, s. 19.

Conditions
may be
imposed in
letters patent

20. The Letters Patent or Supplementary Letters Patent may authorize the Provincial Secretary whenever he sees fit to appoint an auditor to examine the books of the corporation or an inspector to inspect its undertaking and affairs, or to call a general meeting of its shareholders or members, upon such terms as may be therein set out. 2 Geo. V. c. 31, s. 20.

Providing for
appointment
of auditor.

21. Notice of the granting of Letters Patent or Supplementary Letters Patent shall be given forthwith by the Provincial Secretary in the *Ontario Gazette*. 2 Geo. V. c. 31, s. 21.

Notice of
issuing letters
patent.

22. A corporation shall be deemed to be existing from the date of the Letters Patent incorporating the same. 2 Geo. V. c. 31, s. 22.

Commence-
ment of
existence.

23.—(1) A company shall possess as incidental and ancillary to the powers set out in the Letters Patent or Supplementary Letters Patent power to

Powers
incidental to
company.

(a) Carry on any other business, whether manufacturing or otherwise, capable of being conveniently carried on in connection with its business or calculated directly or indirectly to enhance the value of or render profitable any of the company's property or rights;

(b) Acquire or undertake the whole or any part of the business, property and liabilities of any person or company carrying on any business which the company is authorized to carry on, or possessed of property suitable for the purposes of the company;

(c) Apply for, purchase or otherwise acquire any patents, licenses, concessions and the like, conferring any exclusive or non-exclusive, or limited right to use, or any secret or other information as to any invention which may seem capable of being used for any of the purposes of the company, or the acquisition of which may seem calculated directly or indirectly to benefit the company, and to use, exercise, develop or grant licenses in respect of, or otherwise turn to account the property, rights or information so acquired;

- (d) Enter into partnership or into any arrangement for sharing of profits, union of interests, co-operation, joint adventure, reciprocal concession or otherwise, with any person or company carrying on or engaged in or about to carry on or engage in any business or transaction which the company is authorized to carry on or engage in or any business or transaction capable of being conducted so as directly or indirectly to benefit the company; and to lend money to, guarantee the contracts of, or otherwise assist any such person or company, and to take or otherwise acquire shares and securities of any such company, and to sell, hold, re-issue, with or without guarantee, or otherwise deal with the same;
- (e) Subject to section 94, take, or otherwise acquire and hold, shares in any other company having objects altogether or in part similar to those of the company or carrying on any business capable of being conducted so as directly or indirectly to benefit the company;
- (f) Enter into any arrangements with any authorities, municipal, local or otherwise, that may seem conducive to the company's objects, or any of them, and obtain from any such authority any rights, privileges and concessions which the company may think it desirable to obtain, and carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- (g) Establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the company, or its predecessors in business, or the dependents or connections of such persons, and grant pensions and allowances, and make payments towards insurance, and subscribe or guarantee money for charitable or benevolent objects, or for any exhibition or for any public, general or useful object;
- (h) Promote any company or companies for the purpose of acquiring or taking over all or any of the property and liabilities of the company, or for any other purpose which may seem directly or indirectly calculated to benefit the company;
- (i) Purchase, take on lease or in exchange, hire or otherwise acquire any personal property and any rights or privileges which the company may think necessary or convenient for the purposes of its business and in particular any machinery, plant, and stock in trade;

- (j) Construct, improve, maintain, work, manage, carry out or control any roads, ways, tramways, branches or sidings, bridges, reservoirs, water-courses, wharves, manufactories, warehouses, electric works, shops, stores and other works and conveniences which may seem calculated directly or indirectly to advance the company's interests, and contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof;
- (k) Lend money to customers and others having dealings with the company and guarantee the performance of contracts by any such persons;
- (l) Draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, and other negotiable or transferable instruments;
- (m) Sell or dispose of the undertaking of the company or any part thereof for such consideration as the company may think fit, and in particular for shares, debentures or securities of any other company having objects altogether or in part similar to those of the company, if authorized so to do by the vote of a majority in number of the shareholders present or represented by proxy, at a general meeting duly called for considering the matter, and holding not less than two-thirds of the issued capital stock of the company;
- (n) Adopt such means of making known the products of the company as may seem expedient, and in particular by advertising in the press, by circulars, by purchase and exhibition of works of art or interest, by publication of books and periodicals and by granting prizes, rewards and donations;
- (o) Sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the company;
- (p) Do all or any of the above things, and all things authorized by the Letters Patent or Supplementary Letters Patent as principals, agents, contractors, trustees or otherwise, and either alone or in conjunction with others;
- (q) Do all such other things as are incidental or conducive to the attainment of the above objects and of the objects set out in the Letters Patent and Supplementary Letters Patent. 2 Geo. V. c. 31, s. 23 (1); 3-4 Geo. V. c. 18, s. 33 (7).

Powers may
be withheld.

(2) All or any of the powers set out in subsection 1 may be withheld by the Letters Patent or Supplementary Letters Patent. 2 Geo. V. c. 31, s. 23 (2).

Incidental
powers.

24.—(1) A corporation incorporated under this Act shall have power:—

Buildings,
etc.

(a) To construct, maintain and alter any buildings or works necessary or convenient for the purposes of the corporation;

Real estate.

(b) To acquire by purchase, lease or other title, and to hold any real estate necessary for the carrying on of its undertaking, and when no longer required to sell, alienate and convey the same.

Incorporation
subject to
trusts.

(2) The corporation shall, upon its incorporation, be invested with all the property and rights, real and personal theretofore held by or for it under any trust created with a view to its incorporation. 2 Geo. V. c. 31, s. 24.

Payment of
property
acquired in
shares.

25. The directors if authorized so to do by a vote of shareholders present or represented by proxy at a general meeting duly called for considering the matter and holding not less than two-thirds of the issued capital stock represented at the meeting may pay for any property acquired or taken over or purchased under the provisions of clause (b) or clause (i) of subsection 1 of section 23 or clause (b) of section 24 wholly or partly in shares fully or partly paid up. 2 Geo. V. c. 31, s. 25; 3-4 Geo. V. c. 18, s. 33 (8).

Restrictions as
to holding
real estate.

26.—(1) Unless other special statutory enactments apply, any land or interest therein at any time acquired by the corporation and not required for its actual use and occupation or for the purposes of its business, or not held by way of security, shall not be held by the Corporation, or by any trustee on its behalf, for a longer period than seven years after the acquisition thereof, or after it has ceased to be required for its actual use and occupation or for the purposes of its business, but shall be absolutely sold and disposed of, so that the corporation shall no longer retain any interest therein unless by way of security.

Forfeiture of.

(2) Any such land or interest therein not within the exceptions hereinbefore mentioned, held by the corporation for a longer period than seven years without being disposed of shall be forfeited to His Majesty for the use of Ontario.

Extension of
time for
holding.

(3) The Lieutenant-Governor in Council may extend such period from time to time, not exceeding in the whole twelve years, and no such forfeiture shall take effect or be enforced until the expiration of at least six months after notice in writing to the corporation of the intention of His Majesty to claim the same, and during such six months the corporation may dispose of the land or its interest therein.

(4) The corporation shall give to the Provincial Secretary Statement to be furnished to Provincial Secretary. when required a full and correct statement of all lands or interests therein at the date of such statement held by or in trust for the corporation. 2 Geo. V. c. 31, s. 26.

27. The provisions of this Act relating to matters preliminary to the issue of the Letters Patent or Supplementary Letters Patent shall be deemed to be directory only; and no Letters Patent or Supplementary Letters Patent, notice, order or other proceeding by or on behalf of the Lieutenant-Governor, Provincial Secretary or other Government or Departmental officer under this Act shall be void or voidable on account of any irregularity, or otherwise, in respect of any matter preliminary to the issue of the Letters Patent or Supplementary Letters Patent, notice, order or other proceeding or of any alterations in any petition or documents submitted in order to comply with this Act or with the departmental practice thereunder. 2 Geo. V. c. 31, s. 27. Defects of form not to invalidate letters patent, etc.

28.—(1) If a corporation incorporated by Letters Patent does not go into actual *bona fide* operation within two years after incorporation, or for two consecutive years does not use its corporate powers, such powers, except so far as is necessary for the winding up of the corporation, shall be *ipso facto* forfeited. Forfeiture of charter for non-user.

(2) In any action or proceeding where such non-user is alleged proof of user shall lie upon the corporation. Proof of user.

(3) No such forfeiture shall affect prejudicially the rights of creditors as they exist at the date of the forfeiture. Rights of creditors not affected. 2 Geo. V. c. 31, s. 28.

29. The Letters Patent by which a corporation is incorporated and any Supplementary Letters Patent amending or varying the same may, at any time, be declared to be forfeited and may be revoked and made void by the Lieutenant-Governor in Council, on sufficient cause being shown, upon such conditions and subject to such provisions as he may deem proper. 2 Geo. V. c. 31, s. 29. Revocation of charter.

30.—(1) If a corporation exercises its corporate powers when the number of its shareholders or members is less than five, for a period of more than six months after the number has been so reduced, every person who is a shareholder or member of the corporation during the time that it so exercised its corporate powers after such period of six months and is cognizant of the fact that it so exercises its corporate powers, shall be severally liable for the payment of the whole of the debts of the corporation contracted during such time, and may be sued for the same without the joinder in the action of the corporation or of any other shareholder or member. Company with less than five members exercising corporate powers, shareholders personally liable.

Shareholder
by protest
may relieve
himself from
liability.

(2) A shareholder or member who has become aware that the corporation is so exercising its corporate powers may serve a protest in writing on the corporation and may by registered letter notify the Provincial Secretary of such protest having been served and of the facts upon which it is based, and such shareholder or member may thereby and not otherwise, from the date of his protest and notification, exonerate himself from liability.

Revocation of
charter if
number of
shareholders
not brought
up to five.

(3) If, after notice from the Provincial Secretary, the corporation refuses or neglects to bring the number of its shareholders or members up to five such refusal or neglect may, upon the report of the Provincial Secretary, be regarded by the Lieutenant-Governor in Council as sufficient cause for the revocation of the charter of the corporation. 2 Geo. V. c. 31, s. 30.

Surrender of
charter.

31.—(1) The charter of a corporation incorporated by Letters Patent may be surrendered if the corporation proves to the satisfaction of the Lieutenant-Governor:—

- (a) That it has no debts or obligations; or,
- (b) That it has parted with its property, divided its assets rateably amongst its shareholders or members and has no debts or liabilities, or,
- (c) That the debts and obligations of the corporation have been duly provided for or protected or that the creditors of the corporation or other persons holding them consent; and
- (d) That the corporation has given notice of the application for leave to surrender by publishing the same once in the *Ontario Gazette* and once in a newspaper published at or as near as may be to the place where the corporation has its head office.

Acceptance of
surrender and
dissolution of
corporation.

(2) The Lieutenant-Governor, upon a due compliance with the provisions of this section, may accept a surrender of the charter and direct its cancellation, and fix a date upon and from which the corporation shall be dissolved, and the corporation shall thereby and thereupon become dissolved accordingly. 2 Geo. V. c. 31, s. 31.

Termination
of existence of
corporations
not incorpor-
ated by
letters patent.

32. The corporate existence of a corporation incorporated otherwise than by Letters Patent may be terminated by order of the Lieutenant-Governor upon petition therefor by such corporation under like circumstances, in like manner and with like effect as a corporation incorporated by Letters Patent may surrender its charter. 2 Geo. V. c. 31, s. 32.

Regulations by
Lieutenant-
Governor.
in Council.

33. The Lieutenant-Governor in Council may make regulations with respect to:—

- (a) The cases in which notice of application for Letters Patent or Supplementary Letters Patent must be given;
- (b) The forms of Letters Patent, Supplementary Letters Patent, notices and other instruments and documents relating to applications and other proceedings;
- (c) The form and manner of the giving of any notice required by this Act;
- (d) Such other matters as he may deem necessary or expedient for carrying out the objects and provisions of this Act,

and such regulations shall be published in the *Ontario Gazette* and shall be laid before the Assembly forthwith if the Assembly is then in session, and if not then in session within fifteen days after the opening of the next session. 2 Geo. V. c. 31, s. 33.

PART II.

NAME OF CORPORATION.

34.—(1) The corporate name of every company with share capital shall have the word "Limited" as the last word thereof. Use of word "Limited."

(2) Where the company or any director, manager, officer or employee thereof uses the name of the company, the word "Limited" shall appear as the last word thereof. Idem.

(3) Stamping, writing, printing, or otherwise marking on goods, wares and merchandise of the company, or upon packages containing the same shall not be deemed to be a use of the name within the provisions of this section. Saving.

(4) Where the word "company," "club," "association," or other equivalent word forms part of the name the word "Limited" may be abbreviated to "Ltd." or "Ld." 2 Geo. V. c. 31, s. 34 (1)-(4). Abbreviation.

35. Every private company shall have on its seal the words "Private Company" and upon every share certificate issued by the company there shall be distinctly written or printed the same words. 3-4 Geo. V. c. 18, s. 33 (9). "Private Company" to be on seal and on share certificates.

36. Every company and every director, manager, officer or other employee making default in complying with the provisions of the next preceding two sections shall incur a penalty not exceeding \$10 for a first offence and not exceeding \$100 for every subsequent similar offence. 2 Geo. V. c. 31, s. 34 (5); 3-4 Geo. V. c. 18, s. 33 (10). Penalty.

37. The corporate name shall be one which is not objectionable upon any public ground and is not that of any Name to be free from objection.

Proviso.

known corporation or association incorporated or unincorporated, or of any partnership or of any individual, or any name under which any known business is being carried on, or so nearly resembling the same as to be calculated to deceive; but a subsisting corporation, association, partnership, individual or person may consent that its or his name, in whole or in part, be granted to a new corporation incorporated for the purpose of acquiring or promoting the objects of such business. 2 Geo. V. c. 31, s. 35.

When name of one corporation may be given to another.

38.—(1) The name of a corporation which has not, for three consecutive years, made the annual summary prescribed by this Act may be given in whole or in part to a new corporation, unless the defaulting corporation, on notice by the Provincial Secretary by registered letter addressed to the corporation or its president at the address shown by its last return, proves to the satisfaction of the Lieutenant-Governor that it is still a subsisting corporation.

Idem.

(2) If, at the end of one month from the date of such notice, the Provincial Secretary has not been satisfied by the corporation or its president that the corporation is a subsisting corporation it shall be no longer entitled to the use of the corporate name.

Idem.

(3) Where no annual summary has been filed by a corporation for three years immediately following its incorporation its name may be given to another corporation without notice and such first-mentioned corporation shall be deemed not to be subsisting. 2 Geo. V. c. 31, s. 36.

Change of name if objectionable.

39. Where it is made to appear, to the satisfaction of the Lieutenant-Governor in Council, that any corporation is incorporated under a name the same as or so similar to that of an existing corporation, company, partnership, association, individual, or business as to be calculated to deceive the Lieutenant-Governor in Council may by Order change the name of the corporation. 2 Geo. V. c. 31, s. 37.

Or upon application.

40.—(1) Where a corporation is desirous of changing its name the Lieutenant-Governor, upon being satisfied that the corporation is solvent, and that the change desired is not for any improper purpose, and is not otherwise objectionable, may change the name of the corporation.

In case proposed name is objectionable.

(2) Where the proposed name is considered objectionable the Lieutenant-Governor may change the name of the corporation to some unobjectionable name. 2 Geo. V. c. 31, s. 38.

Notice of change.

41. Notice of the change of the name of a corporation shall be given by the Provincial Secretary by publication in the *Ontario Gazette*. 2 Geo. V. c. 31, s. 39.

Change not to affect rights or obligations.

42. The alteration of the name of a corporation shall not affect its rights or obligations. 2 Geo. V. c. 31, s. 40.

PART III.

MEETINGS OF COMPANY.

First Meeting of Private Company, or of a Company which is not offering Shares, Debentures or Debenture Stocks to the Public for Subscription.

43.—(1) The provisional directors of a private company ^{First meeting.} or a company which does not offer shares, debentures or debenture stock to the public for subscription shall call a general meeting of the company to be held at a convenient place within two months from the date of the Letters Patent for the purpose of electing directors, appointing auditors, sanctioning the by-laws of the company, and transacting such other business as may be necessary to enable the company to carry on its undertaking, and shall, at least ten days before the day on which such meeting is to be held, give ^{Notice.} notice of such meeting by registered letter addressed to each shareholder, setting out in detail the business to be transacted and matters to be considered thereat.

(2) The provisional directors shall report to such meet- ^{Report at first meeting.} ing

- (a) The number of shares subscribed;
- (b) The names of the subscribers;
- (c) The amount paid thereon;
- (d) All contracts entered into by or on behalf of the company;
- (e) The amount of the preliminary expenses, and
- (f) A financial statement of the affairs of the company signed by the auditors, if any.

(3) If the meeting is not called by the provisional direc- ^{Shareholders may call.} tors as aforesaid any three or more shareholders may call the meeting. 2 Geo. V. c. 31, s. 41.

(As to statutory meeting of public companies, see section 117.)

General Meetings.

44. In default of other express provision in the Special ^{Notice of meeting.} Act, the Letters Patent, or Supplementary Letters Patent or by-laws of a company, notice of the time and place for holding general meetings of every company, including the statutory meeting and the annual and special meetings, shall be given at least ten days previously thereto by registered letter to each shareholder at his last known address, and by an advertisement in a newspaper published at or as near as may be to the place where the company has its head office and to the chief place of business of the company if these differ. 2 Geo. V. c. 31, s. 42.

Annual
meeting.

45.—(1) The annual meeting of the shareholders of the company shall be held at such time and place in each year as the Special Act, Letters Patent, Supplementary Letters Patent or by-laws of the company may provide, and in default of any such provision on the fourth Wednesday in January in every year.

Report to be
sent share-
holders.

(2) The directors shall, at least seven days before the day on which the meeting is held, send by post to every shareholder a report containing

Balance sheet.

(a) A balance sheet made up to a date not more than three months before such annual meeting;

Abstract of
income and
expenditure.

(b) An abstract of income and expenditure for the financial period ending upon the date of such balance sheet;

Auditor's
report.

(c) The report of the auditor or auditors;

Further
necessary
information.

(d) Such further information respecting the company's financial position as the Special Act, the Letters Patent, Supplementary Letters Patent, or the by-laws of the company may require;

and the directors shall lay such report before the meeting.

Balance sheet
to show assets
and liabilities

(3) Every balance sheet shall be drawn up so as to distinguish at least the following classes of assets and liabilities, namely:

(a) Cash;

(b) Debts owing to the company from its customers;

(c) Debts owing to the company from its directors, officers and shareholders;

(d) Stock in trade;

(e) Expenditures made on account of future business;

(f) Land, buildings and plant;

(g) Goodwill, franchises, patents and copyrights, trademarks, leases, contracts and licenses;

(h) Debts owing by the company secured by mortgage or other lien upon the property of the company;

(i) Debts owing by the company but not secured;

(k) Amount received on common shares;

(l) Amount received on preferred shares;

(m) Indirect and contingent liabilities.

When report
need not
be sent.

(4) If the by-laws of the company so provide it shall not be necessary to send the report mentioned in subsection 2 to the shareholders. 2 Geo. V. c. 31, s. 43.

46.—(1) Upon the receipt of a requisition in writing, signed by the holders of not less than one-tenth of the subscribed shares of the company, setting out the objects of the proposed meeting, the directors, or, if there is not a quorum in office, the remaining directors or director shall forthwith convene a special general meeting of the company for the transaction of the business mentioned in the requisition. Special general meeting by directors on requisition therefor.

(2) If the meeting is not called and held within twenty-one days from the date upon which the requisition was left at the head office of the company any shareholders holding not less than one-tenth in value of the subscribed shares of the company, whether they signed the requisition or not, may themselves convene such special general meeting. By share-holders.

(3) The directors may at any time, of their own motion, call a special general meeting of the company for the transaction of any business. By directors.

(4) Notice of any special general meeting shall state the business which is to be transacted at it. 2 Geo. V. c. 31, s. 44. Notice of.

47. The president shall preside as chairman at every general meeting of the company, and if there is no president or vice-president, or if at any meeting neither of them is present within fifteen minutes after the time appointed for holding the meeting, the shareholders present shall choose one of their number to be chairman. 2 Geo. V. c. 31, s. 45. Presiding officer. Chairman to be elected when necessary.

48. The chairman may, with the consent of the meeting and subject to such conditions as the meeting may decide, adjourn any meeting from time to time and from place to place. 2 Geo. V. c. 31, s. 46. Adjournment by consent.

49.—(1) At any general meeting, unless a poll is demanded, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the minutes of the company, shall be *prima facie* evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution. Procedure as to resolution.

(2) If a poll is demanded it shall be taken in such manner as the by-laws prescribe, and if the by-laws make no provision therefor then as the chairman may direct. Taking vote when poll is demanded.

(3) In the case of an equality of votes at any general meeting the chairman shall be entitled to a second or casting vote. 2 Geo. V. c. 31, s. 47. Casting vote.

50. Subject to the Special Act, Letters Patent, Supplementary Letters Patent or by-laws, at all meetings of shareholders every shareholder shall be entitled to as many votes as he holds shares in the company, and may vote by proxy, but no shareholder in arrear in respect of any call shall be entitled to vote at any meeting. 2 Geo. V. c. 31, s. 48. Votes. Shareholders in arrear not to vote.

Proxy.

51,—(1) The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorized in writing, or, if the appointor is a corporation, either under the common seal or under the hand of an officer or attorney so authorized, and shall cease to be valid after the expiration of one year from the date thereof.

Qualification of proxy.

(2) No person shall act as a proxy unless he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy or has been appointed to act at that meeting as proxy for a corporation.

Not to vote on show of hands.

(3) A proxy for an absent shareholder shall not have the right to vote on a show of hands.

Form of.

(4) An instrument appointing a proxy may be according to Form 6 or such other form as may be prescribed by the by-laws of the corporation and shall not contain anything but the appointment of the proxy or a revocation of a former instrument appointing a proxy.

Revocation of.

(5) An instrument appointing a proxy may be revoked at any time. 2 Geo. V. c. 31, s. 49.

Where meetings to be held.

52. Meetings of the shareholders, directors and executive committees shall be held at the place where the head office of the company is situate except when otherwise provided by the Special Act, Letters Patent, Supplementary Letters Patent or the by-laws of the company, but shall not be held out of Ontario unless when so authorized by the Special Act, Letters Patent or Supplementary Letters Patent. 2 Geo. V. c. 31, s. 50.

PART IV.

SHARES, CALLS.

Generally.

Limit of shareholder's holding in certain cases.

53. No shareholder of a co-operative cold storage company or association to which aid has been or may hereafter be granted under the provisions of any statute, or of a cheese and butter manufacturing company carried on on the co-operative plan, shall hold shares to an amount exceeding \$1,000. 2 Geo. V. c. 31, s. 51.

Share certificate.

54.—(1) Every shareholder shall, without payment, be entitled to a certificate under the common seal of the company stating the number of shares held by him and the amount paid up thereon, but, in respect of a share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint shareholders shall be sufficient delivery to all.

(2) The certificate shall be *prima facie* evidence of the title of the shareholder to the shares mentioned in it. Evidence of title.
2 Geo. V. c. 31, s. 52 (1-2).

(3) Where a company issues shares in pounds sterling, francs or marks, shares previously issued in Canadian currency may, at the option of the holder, be exchanged for shares in pounds sterling, francs or marks. Shares issued in pounds sterling or francs or marks.
2 Geo. V. c. 31, s. 52 (3)¹; 3-4 Geo. V. c. 18, s. 33 (12).

(4) For the purpose of dividends, distribution of assets, voting and all other matters relating to the amount of shares issued in pounds sterling or francs or marks, one pound sterling or twenty-five francs or twenty marks shall be calculated as five dollars. Fixed value of shares so issued.
2 Geo. V. c. 31, s. 52 (4); 3-4 Geo. V. c. 18, s. 33 (13).

(5) Shares shall include share warrants, where the company is authorized to issue the same. Shares to include share warrants.
2 Geo. V. c. 31, s. 52 (5).

55. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, not exceeding twenty-five cents and on such terms, if any, as to evidence and indemnity as the directors think fit. Lost certificate.
2 Geo. V. c. 31, s. 53.

56.—(1) The shares of the company shall be deemed personal estate and shall be transferable on the books of the company in such manner and subject to such conditions and restrictions as by this Act, the Special Act, the Letters Patent, Supplementary Letters Patent or by-laws of the company may be prescribed. Shares personal estate.

(2) Subject to section 58, no by-law shall be passed which in any way restricts the right of a holder of paid up shares to transfer the same, but nothing in this section shall prevent the regulation of the mode of transfer thereof. Restrictions on transfer.
2 Geo. V. c. 31, s. 54.

57.—(1) No transfer of shares the whole amount whereof has not been paid up shall be made without the consent of the directors. When directors' consent required.

(2) Where any such transfer is made, with the consent of the directors, to a person who is not apparently of sufficient means to fully pay up such shares, subject to subsection 3, the directors shall be jointly and severally liable to the creditors of the company in the same manner and to the same extent as the transferring shareholder, but for such transfer, would have been. Their liability if they allow transfers to persons without means.

(3) If any director present when such transfer is allowed forthwith, or if any director then absent, within twenty-four hours after he becomes aware of such transfer, and is able to do so, enters his written protest against the same, and, Relief from liability by entering protest.

within eight days thereafter, causes such protest to be notified by registered letter to the Provincial Secretary, such director shall thereby and not otherwise exonerate himself from such liability.

Liability
where call
remains
unpaid.

(4) Where a share upon which a call is unpaid is transferred, with the consent of the directors, the transferee shall be liable for the call to the same extent and with the same liability to forfeiture of the shares, if the call remains unpaid, as if he had been the holder when the call was made, and the transferor shall remain also liable for the call until it has been paid. 2 Geo. V. c. 31, s. 55.

Refusal to
register
transfer of
shareholder
indebted to
corporation.

58. Where the Letters Patent, Supplementary Letters Patent or by-laws of a corporation confer that power on the directors, they may decline to register a transfer of shares belonging to a shareholder who is indebted to the corporation. 2 Geo. V. c. 31, s. 56.

Closing
transfer
books pending
distribution of
dividend.

59. The directors, upon the passing of a by-law authorizing the payment of a dividend upon shares, may direct that no entry of transfers shall be made in the books of the company for a period of two weeks immediately preceding the payment of such dividend, and payment thereof shall be made to the shareholders of record on the date of closing such books. 2 Geo. V. c. 31, s. 57.

Transfer valid
only after
entry.

60. No transfer of shares, unless made by sale under execution or under the order or judgment of a competent court, shall, until entry thereof has been duly made, be valid for any purpose whatever, save only as exhibiting the rights of the parties thereto towards each other, and, if absolute, as rendering the transferee and the transferor jointly and severally liable to the company and its creditors until entry thereof has been duly made in the books of the company. 2 Geo. V. c. 31, s. 58.

Transferor
may be
notified.

61.—(1) The directors may, for the purpose of notifying the person registered therein as owner of such shares, refuse to allow the entry in any such books of a transfer of shares, and in that event shall forthwith give notice to the owner of the application for the entry of the transfer.

Owner may
lodge caveat.

(2) Such owner may lodge a caveat against the entry of the transfer and thereupon such transfer shall not be made for a period of forty-eight hours.

Transfer may
be entered if
no order
served.

(3) If, within one week from the giving of such notice or the expiration of the period of forty-eight hours, which ever shall last expire, no order of a competent court enjoining the entry of such transfer shall have been served upon the company the transfer may be entered.

Company not
to be liable
if section
complied
with.

(4) Where a transfer is entered after the proceedings mentioned in this section the company shall, in respect of the shares so transferred, be free from liability to a person

whose rights are purported to be transferred, but without prejudice to any claim which the transferor may have against the transferee. 2 Geo. V. c. 31, s. 59.

62.—(1) The directors may call in and demand from the shareholders the amount unpaid on shares by them subscribed or held, at such times and places and in such payments or instalments as the Special Act, the Letters Patent, Supplementary Letters Patent, this Act, or the by-laws of the company require or allow; and interest shall accrue upon the amount of any unpaid call from the day appointed for payment of such call. Calling in instalments.

(2) The demand shall state that in the event of non-payment the shares in respect of which the call was made will be liable to be forfeited. Demand to state liability to forfeiture.

(3) If, after the demand, any call is not paid within the time and in the manner provided by the Special Act, the Letters Patent, Supplementary Letters Patent or the by-laws, the directors, by resolution to that effect reciting the facts and duly recorded in their minutes, may summarily forfeit any shares whereon such payment is not made; and the same shall thereupon become the property of the company and may be disposed of as, by by-law or otherwise, the company may ordain; but such forfeiture shall not relieve the shareholder of any liability to the company or to any creditor. 2 Geo. V. c. 31, s. 60. Forfeiture of shares.

Share Warrants.

63. A company, if authorized so to do by the Special Act, the Letters Patent or Supplementary Letters Patent and subject to the provisions thereof, may, with respect to any share which is fully paid up, upon the deposit of the share certificate, if any, issue under its common seal a warrant, herein called a share warrant, stating that the bearer of the warrant is entitled to the share and may provide, by coupons or otherwise, for the payment of the future dividends on such share. 2 Geo. V. c. 31, s. 61. Issue of share warrants.

64. A share warrant shall entitle the bearer to the shares specified in it and such shares may be transferred by the delivery of the share warrant. 2 Geo. V. c. 31, s. 62. Rights of holders.

65. The bearer of a share warrant, subject to the provisions respecting share warrants contained in the Letters Patent or Supplementary Letters Patent, shall be entitled, on surrendering such warrant for cancellation, to have his name entered as a shareholder in the register of shareholders, and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register of shareholders the name of any bearer of a share warrant in respect of the shares specified therein, without the share warrant being surrendered and cancelled. 2 Geo. V. c. 31, s. 63. Surrender of share warrants.

How far
holders of
share warrants
to be deemed
shareholders.

66. The bearer of a share warrant may, if the Letters Patent or Supplementary Letters Patent so provide, be deemed to be a shareholder of the company, either to the full extent or for such purposes as may be thereby prescribed, but he shall not be qualified, in respect of the shares specified in such warrant, to be a director where the by-laws of the company provide that a director must be the holder of a specified number of shares. 2 Geo. V. c. 31, s. 64.

Restrictions
on holders of
share warrants.

67. Except as herein otherwise expressly provided no person shall, as a bearer of a share warrant, sign a requisition for calling a meeting of the company, or attend, or vote, or exercise any other privilege of a shareholder at a meeting of the company, or be entitled to receive any notices from the company; but the bearer of a share warrant shall be entitled in all other respects to the same privileges and advantages as if he were named in the register of shareholders as the holder of the shares included in the warrant, and he shall be a shareholder of the company. 2 Geo. V. c. 31, s. 65.

Entries in
register
where share
warrant
issued.

68. On the issue of a share warrant in respect of any share the company shall strike out of its register of shareholders the name of the shareholder then entered therein as holding such share as if he had ceased to be a shareholder and shall enter in the register

- (a) The fact of the issue of the warrant;
- (b) A statement of the shares included in the warrant;
- (c) The date of issue of the warrant. 2 Geo. V. c. 31, s. 66.

Compliance
with s. 118.

69. Until the warrant is surrendered the above particulars shall be deemed to be the particulars which are required by section 118 to be entered in the register of shareholders; and on the surrender of a warrant the date of such surrender shall be entered as if it were the date at which a person ceased to be a shareholder. 2 Geo. V. c. 31, s. 67.

Exercise of
privileges on
deposit of
share
warrants.

70.—(1) The bearer of a share warrant may at any time deposit the warrant at the office of the company, and so long as the warrant remains so deposited the depositor shall have the same right of signing a requisition for calling a meeting of the company and of attending and voting and exercising the other privileges of a shareholder at any meeting, held after the expiration of two clear days from the time of deposit, as if his name were inserted in the register of shareholders as the holder of the shares included in the deposited warrant, and the company shall, on two days' written notice, return the deposited share warrant to the depositor.

Conditions.

(2) Not more than one person shall be recognized as depositor of the share warrant. 2 Geo. V. c. 31, s. 68.

71. The directors may make rules as to the terms on which a new share warrant or coupon may be issued in case of the defacement, loss or destruction of the original. 2 Geo. V. c. 31, s. 69. Lost share warrant.

Liability of Shareholders—Execution of Trusts.

72.—(1) A company shall not be bound to see to the execution of any trust, whether express, implied or constructive to which any share is subject. Trusts.

(2) The receipt of the person in whose name the same stands on the books of the company shall be a sufficient discharge to the company for any payment made in respect of such share, whether or not the company had notice of such trust. Sufficient discharge.

(3) The company shall not be bound to see to the application of the money paid upon such receipt. 2 Geo. V. c. 31, s. 70. Application of money paid.

73.—(1) An executor, administrator, guardian, trustee or committee of a lunatic shall represent the shares in his hands at all meetings of the company and may vote accordingly as a shareholder, and every person who mortgages or hypothecates his shares may nevertheless represent the same at all such meetings, and may vote accordingly as a shareholder unless, in the instrument creating the mortgage or hypothecation, he has expressly empowered the holder of such mortgage or hypothecation to vote thereon, in which case only such holder or his proxy may vote in respect of such shares. Trustees, etc., may vote.
Mortgagor of stock may vote.
Exceptions.

(2) Subject to the by-laws, if shares are held jointly by two or more persons any one of them present at a meeting may, in the absence of the other or others, vote thereon, but if more than one of them are present, or represented by proxy, they shall vote together on the shares jointly held. 2 Geo. V. c. 31, s. 71. Joint holders of stock.

74.—(1) Every shareholder, until the whole amount of his shares has been paid up, shall be individually liable to the creditors of the company to an amount equal to that not paid up thereon, but shall not be liable to an action therefor by any creditor before an execution against the company has been returned unsatisfied in whole or in part; and the amount due on such execution, but not beyond the amount so unpaid on his shares, shall be the amount recoverable against such shareholder. Liability of shareholders.

(2) A shareholder may plead by way of defence, in whole or in part, any set-off which he could set up against the company, except a claim for unpaid dividend, or a salary or allowance as president or director of the company. 2 Geo. V. c. 31, s. 72. Set-off.

Shareholders
not liable
beyond unpaid
amount.

75. A shareholder shall not, as such, be answerable for any act, default or liability of the company, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the company beyond the amount unpaid on his shares. 2 Geo. V. c. 31, s. 73.

Trustees not
personally
liable.

76.—(1) No person holding shares as executor, administrator, guardian, committee of a lunatic or trustee, of or for any estate, trust or person named in the books of the company as being so represented by him shall be personally subject to any liability as a shareholder, but the estates and funds in his hands shall be liable in like manner and to the same extent as the testator, intestate, ward, lunatic or person, interested therein would be if living and competent to act as the holder of such shares.

Liability of
beneficiary.

(2) If the trust is for a living person not under disability such person shall also be liable as a shareholder.

Where
beneficiary,
etc., not
named
trustee, etc.,
liable.

(3) If the testator, intestate, ward, lunatic or person so represented is not named in the books of the company the executor, administrator, guardian, committee or trustee shall be personally liable in respect of such shares as if he held them in his own name as owner thereof. 2 Geo. V. c. 31, s. 74.

Mortgagees
prior to
foreclosure.

77. No person holding shares as collateral security shall, prior to foreclosure, be personally subject to liability as a shareholder, but the person transferring such shares as collateral security shall, until foreclosed, be considered as holding the same, and shall be liable as a shareholder in respect thereof. 2 Geo. V. c. 31, s. 75.

PART V.

PREFERENCE AND DEBENTURE STOCK, DEBENTURES AND MORTGAGES.

By-laws for

78.—(1) The directors of a corporation may make by-laws for:—

Borrowing
money.

(a) Borrowing money;

Issuing
securities.

(b) Issuing bonds, debentures, debenture stock, both perpetual and terminable, or other securities;

Disposing of
securities.

(c) Pledging or selling such bonds, debentures or debenture stock, or other securities for such sum and at such prices as may be deemed expedient or be necessary.

By-laws for

(2) The directors of a company may make by-laws for:—

- (a) Creating and issuing any part of the capital as preference shares; Creating preference shares.
- (b) The conversion of preference shares into common shares or debentures or debenture stock, debentures into debenture stock or preference shares, or any class of shares or securities into any other class. Conversion of preference shares.

(3) Nothing in this section shall limit or restrict the power of a corporation to borrow money on bills of exchange, promissory notes, bills of lading, warehouse receipts or other securities of a commercial nature issued in the ordinary course of business. 2 Geo. V. c. 31, s. 76. General power of borrowing not affected.

79. No by-law for any of the purposes mentioned in the next preceding section shall take effect until it has been confirmed by a vote of shareholders present, or represented by proxy and holding not less than two-thirds of the issued capital stock represented at the meeting or by a vote of two-thirds of the members so present or represented, as the case may be, at a general meeting duly called for considering the same. 2 Geo. V. c. 31, s. 77. Confirming by-law.

80.—(1) A by-law for the creation and issue of preference shares or for the conversion of shares, debentures or debenture stock into preference shares may provide that the holders of such shares shall have such preference as regards dividends and repayment on dissolution or winding-up as may be therein set out, and the right to select a stated proportion of the board of directors, or such other control over the affairs of the company as may be considered expedient; or may limit the right of the holders thereof to specific dividends or control of the affairs of the company or otherwise, not contrary to law or to this Act, and may provide for the purchase or redemption of such shares by the company as therein set out; but any term or provision of such by-law, whereby the rights of holders of such shares are limited or restricted, shall be fully set out in the certificate of such shares, and in the event of such limitations and restrictions not being so set out they shall not be deemed to qualify the rights of holders thereof. By-law for issue of preference shares.

(2) No such by-law which has the effect of increasing or decreasing the capital of the company, or increasing the amount of the preference stock authorized by the special Act, Letters Patent or Supplementary Letters Patent of the company, or otherwise varying any term or provision thereof, shall be valid or acted upon until confirmed by Supplementary Letters Patent. 2 Geo. V. c. 31, s. 78. When confirmation by supplementary letters patent required.

81. Unless preference shares, debenture stock, debentures or bonds are issued subject to redemption or conversion the same shall not be subject to redemption or conversion without the consent of the holders thereof. 2 Geo. V. c. 31, s. 79. Consent of holders to redemption.

Mortgages to
secure debentures, etc.

82.—(1) The directors may charge, hypothecate, mortgage, or pledge any or all of the real or personal property, including book debts and unpaid calls, rights, powers, undertaking and franchises of the corporation to secure any bonds, debentures, debenture stock, or other securities, or any liability of the corporation.

Duplicate to
be filed.

(2) A duplicate original of such charge, mortgage or other instrument of hypothecation or pledge made to secure such bonds, debentures or debenture stock or other securities shall be forthwith filed in the office of the Provincial Secretary as well as registered under the provisions of any other Act in that behalf. 2 Geo. V. c. 31, s. 80.

Registration.

PART VI.

DIRECTORS AND THEIR POWERS, ETC.

First
directors.

83. The persons named as provisional directors in the Special Act or in the Letters Patent shall be the directors of the company until replaced by the same number of others duly elected in their stead by the shareholders in general meeting, which shall be held not later than two months after the coming into force of the Special Act or the date of the Letters Patent, and they shall be eligible for election. 2 Geo. V. c. 31, s. 81.

When election
to be held.

Board of
directors.

84. The affairs of the company shall be managed by a board of not less than three directors who shall be elected by the shareholders in general meeting. 2 Geo. V. c. 31, s. 82.

Business must
be transacted
by quorum
of board.

85.—(1) Except as in this section provided no business of a company shall be transacted by its directors unless at a meeting of directors at which a quorum of the board shall be present.

Majority to
constitute
quorum.

(2) Unless otherwise provided by the Letters Patent or Supplementary Letters Patent a majority of the directors shall be necessary to constitute a quorum.

Filling
vacancies
while there
is a quorum.

(3) So long as a quorum of directors remains in office vacancies in the board may be filled by such directors as remain in office.

Calling
meeting when
no quorum.

(4) Whenever there is not a quorum of directors in office it shall be the duty of the remaining directors or director forthwith to call a meeting of the shareholders to fill the vacancies, and in default the meeting may be called by any shareholder.

Calling meet-
ing when
no directors.

(5) If there are no directors remaining in office a meeting to elect directors may be called by any shareholder. 2 Geo. V. c. 31, s. 83.

86.—(1) The shareholders of a company having more than six directors may, by a resolution passed by a vote of those present or represented by proxy and holding not less than two-thirds of the issued capital stock represented at a general meeting called for that purpose, authorize the directors to delegate any of their powers to an executive committee, consisting of not less than three, to be elected by the directors from their number. Executive committee.

(2) A committee so formed shall, in the exercise of the powers so delegated, conform to any regulation that may be imposed upon them by such resolution or by the directors. Committee subject to regulations.
2 Geo. V. c. 31, s. 84.

87. No person shall hold office as a director unless he is a shareholder absolutely in his own right and not in arrear in respect of any call, and where any director ceases to be such a shareholder he shall thereupon cease to be a director. Qualification of directors.
2 Geo. V. c. 31, s. 85.

88. In the absence of other provisions in that behalf, in the Letters Patent or Supplementary Letters Patent or by-laws of the company, Election of directors.

(a) The election of directors shall take place yearly, and all the directors then in office shall retire, but, if otherwise qualified, they shall be eligible for re-election; Yearly.

(b) Every election of directors shall be by ballot; By ballot.

(c) The directors shall, from time to time, elect from among themselves a president and, if they see fit, a vice-president of the company; and may also appoint all other officers thereof. President, vice-president and officers. R.S.C. c. 79, s. 78.
2 Geo. V. c. 31, s. 86.

89. If an election of directors is not made, or does not take effect at the proper time, the company shall not thereby be dissolved; but the election may take place at any general meeting of the company duly called for that purpose; and the directors shall continue in office until their successors are duly elected. Failure to elect directors —how remedied.
2 Geo. V. c. 31, s. 87.

90.—(1) A company may, by by-law, vary the number of its directors, but so that the number shall be not less than three, and may change the location of the head office in Ontario, and, if so authorized by the Letters Patent or Supplementary Letters Patent, fix the quorum of the board. Change by by-law of number or quorum of directors or of head office in Ontario.

(2) No such by-law shall take effect until confirmed by a vote of shareholders present or represented by proxy at a meeting duly called for considering the same and holding not less than two-thirds of the issued capital stock represented at such meeting. By-law to be confirmed by shareholders.

Publication. (3) A copy of the by-law certified under the seal of the company shall be forthwith filed in the office of the Provincial Secretary and published in the *Ontario Gazette*; and, in case of the removal of the head office, twice in a newspaper published in the place where the head office was located and also twice in a newspaper published in the place to which the head office is to be removed or as near thereto as may be. 2 Geo. V. c. 31, s. 88.

By-laws. **91.**—(1) The directors may pass by-laws, not contrary to law or to the Letters Patent or Supplementary Letters Patent or to this Act, to regulate:

Shares. (a) The allotment of shares; the making of calls thereon; the payment thereof; the issue and registration of certificates of shares; the forfeiture of shares for non-payment; the disposal of forfeited shares and of the proceeds thereof; the transfer of shares;

Dividends. (b) The declaration and payment of dividends;

Directors' services, etc. (c) The amount of the share qualification of the directors and the remuneration of the directors and of the President and Vice-President;

Meetings. (d) The time at which and place where the meetings of the company shall be held; the calling of meetings of the company; and the procedure in all things at such meetings; and except as provided by section 51 of the requirements as to proxies;

Miscellaneous. (e) The conduct in all other particulars of the affairs of the company.

Confirmation of by-laws. (2) Subject to the provisions of subsection 3 every such by-law and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the company duly called for that purpose, shall have force only until the next annual meeting of the company; and in default of confirmation thereat shall, at and from that time, cease to have force; and in that case no new by-law to the same or the like effect or re-enactment thereof shall have any force until confirmed at a general meeting of the company.

By-laws may be varied. (3) The company may, either at a general meeting called for that purpose or at the annual meeting, repeal, amend, vary or otherwise deal with any by-law passed by the directors, but no act done or right acquired under any by-law shall be prejudicially affected by any such repeal, amendment, variation or other dealing. 2 Geo. V. c. 31, s. 89.

Payments to president or directors. **92.** No by-law for the payment of the president or of any director shall be valid or acted upon unless passed at a general meeting, or, if passed by the directors, until the same has been confirmed at a general meeting. 2 Geo. V. c. 31, s. 90.

93.—(1) No director shall at any directors' meeting vote in respect of any contract or arrangement made or proposed to be entered into with the company in which he is interested either as vendor, purchaser or otherwise. 2 Geo. V. c. 31, s. 91 (1); 3-4 Geo. V. c. 18, s. 34 (1).

Directors not to vote on contracts in which they have a personal interest, etc.

(2) A director who may be in any way interested in any contract or arrangement proposed to be made with the company shall disclose the nature of his interest at the meeting of the directors at which such contract or arrangement is determined on, if his interest then exists, or in any other case at the first meeting of the directors after the acquisition of his interest, and if he discloses the nature of his interest, and refrains from voting, he shall not be accountable to the company by reason of the fiduciary relationship existing for any profit realized by such contract or arrangement; but no director shall be deemed to be in any way interested in any contract or arrangement, nor shall he be disqualified from voting or be held liable to account to the company by reason of his holding shares in any other company with which a contract or arrangement is made or contemplated. 2 Geo. V. c. 31, s. 91 (2); 3-4 Geo. V. c. 18, s. 34 (2).

No liability where interest disclosed, and refrains from voting.

(3) This section shall not apply to any contract by or on behalf of a company to give the directors or any of them security by way of indemnity. 2 Geo. V. c. 31, s. 91 (3).

Proviso.

94.—(1) The company although authorized by the Special Act, Letters Patent or Supplementary Letters Patent, or by this Act to purchase shares in any other corporation shall not do so or use any of its funds for such purpose until the directors have been expressly authorized by a by-law passed by them for the purpose, and confirmed by a vote of shareholders present or represented by proxy at a general meeting duly called for that purpose and holding not less than two-thirds of the issued capital stock represented at such meeting. 2 Geo. V. c. 31, s. 92 (1); 3-4 Geo. V. c. 18, s. 33 (14).

Not to purchase shares of other corporations unless authorized by law.

(2) This section shall not apply to a company incorporated for the purpose of carrying on the business of buying, selling or dealing in shares. 2 Geo. V. c. 31, s. 92 (2).

Not to apply to company dealing in shares.

95.—(1) The directors shall not declare or pay any dividend or bonus when the company is insolvent, or any dividend or bonus the payment of which renders the company insolvent or diminishes the capital thereof; but if any director, present when such dividend or bonus is declared, forthwith, or if any director then absent, within twenty-four hours after he has become aware thereof, and able so to do, enters his written protest against the same, and within eight days thereafter causes such protest to be notified by registered letter to the Provincial Secretary, such director may thereby, and not otherwise, exonerate himself from liability. 2 Geo. V. c. 31, s. 93 (1).

Liability of directors declaring a dividend when company is insolvent, etc.

How a director may avoid such liability.

Case of
companies
with wasting
assets.

(2) Nothing in this section shall prevent a mining company or a company whose assets are of a wasting character from declaring or paying dividends out of its funds derived from the operations of the company.

How far
capital may
be impaired.

(3) The powers conferred by subsection 2 may be exercised notwithstanding that the value of the net assets of the company may be thereby reduced to less than the par value of the issued capital stock of the company if the payment of the dividends does not reduce the value of its remaining assets so that they will be insufficient to meet all the liabilities of the company exclusive of its nominal paid-up capital.

Dividends,
how payable.

(4) A dividend may be paid by any such company distributing in specie or in kind assets of the company not exceeding in value the amount of the dividend.

Approval of
shareholders.

(5) The powers conferred by subsection 2 shall not be exercised by any such company unless under the authority of a by-law passed by the directors and confirmed at a general meeting duly called for the purpose of considering the same by a vote of the shareholders present or represented by proxy and holding not less than two-thirds of the issued capital stock represented at such meeting.

Validity of
payments.

(6) Where dividends have already been paid by such a company in any of the cases mentioned in subsection 2, the payment thereof shall be deemed valid if a by-law adopting and approving the same is passed by the directors and approved by vote of the shareholders in the manner mentioned in subsection 5. 3-4 Geo. V. c. 18, s. 33 (15).

Stock
dividends.

96. For the amount of any dividend which the directors may lawfully declare payable in money, they may declare a stock dividend and issue therefor shares of the company as fully paid or partly paid, or may credit the amount of such dividend on the shares of the company already issued but not fully paid, and the liability of the holders of such shares shall be reduced by the amount of such dividend. 2 Geo. V. c. 31, s. 94.

No loan by
company to
shareholders.

97. No loan shall be made by the company to any shareholder, and if such a loan is made all directors and other officers of the company making the same and in any wise assenting thereto shall be jointly and severally liable to the company for the amount thereof, and also to third parties to the extent of such loan with interest, for all debts of the company contracted from the time of the making of the loan to that of the repayment thereof. 2 Geo. V. c. 31, s. 95.

Liability of
directors for
wages.

98.—(1) The directors of the company shall be jointly and severally liable to the labourers, servants and apprentices thereof for all debts not exceeding one year's wages due for services performed for the company while they are such directors respectively.

(2) A director shall not be liable under subsection 1 unless No liability until

(a) The company has been sued for the debt within one year after it has become due and execution has been returned unsatisfied in whole or in part; or Company sued, etc.

(b) The company has, within that period, gone into liquidation or has been ordered to be wound up and the claim for such debt has been duly filed and proved, Company in liquidation, etc.

nor unless he is sued for such debt while a director or within one year after he has ceased to be a director. Unless sued while director, etc.

(3) If execution has so issued the amount recoverable against the director shall be the amount remaining unsatisfied on the execution. Liability for amount unsatisfied on execution.

(4) If the claim for such debt has been proved in liquidation or winding-up proceedings a director, upon payment of the debt, shall be entitled to any preference which the creditor paid would have been entitled to, and where a judgment has been recovered he shall be entitled to an assignment of the judgment. 2 Geo. V. c. 31, s. 96. On payment director entitled to assignment of judgment, etc.

PART VII.

PROSPECTUS AND DIRECTORS' LIABILITY.

99.—(1) In this Part, Interpretation.

(a) "Company" shall include a company proposed to be incorporated; "Company."

(b) "Prospectus" shall mean any prospectus, notice, circular, advertisement or other invitation offering for subscription or purchase any shares, debentures, debenture stock or other securities of a company, or published or issued for the purpose of being used to promote or aid in the subscription or purchase of such shares, debentures, debenture stock or securities. 2 Geo. V. c. 31, s. 97 (1). "Prospectus."

(2) This Part, except section 102, shall apply to every company, whether formed before or after the commencement of this Act, which offers to the public for subscription shares, debentures, debenture stock or other securities and to every company, whether incorporated under the law of Ontario or otherwise, the shares, debentures, debenture stock or other securities of which are dealt in within Ontario. 2 Geo. V. c. 31, s. 97 (2); 3-4 Geo. V. c. 18, s. 33 (16). Application of this part.

When company
deemed to be
offering
shares, etc.,
to the public.

(3) Where a company or any of its officers, agents or brokers, or any person employed or authorized by it for that purpose, directly or indirectly invites or solicits either orally or by a prospectus, or any other means, any other person to apply or subscribe for or to buy or otherwise acquire any shares, debentures, debenture stock or other securities of the company, or where any person who has subscribed for or underwritten or to whom has been allotted the whole or the major part of any issue of the company's shares, debentures, debenture stock or other securities so invites or solicits any person to apply or subscribe for or to buy or otherwise acquire any of such last mentioned shares, debentures, or debenture stock, the company shall be deemed to offer to the public for subscription within the meaning of this Act, its shares, debentures, debenture stock or other securities. 2 Geo. V. c. 31, s. 97 (3).

When a
commission
may be paid.

100.—(1) Upon any offer of shares to the public for subscription a company may pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such shares, if the payment of the commission and the amount or rate of the commission paid or agreed to be paid are authorized by the Letters Patent or Supplementary Letters Patent and disclosed in the prospectus, and the commission paid or agreed to be paid does not exceed the amount or rate so authorized.

Capital not
to be applied
in paying
commissions
except as
authorized.

(2) Except as provided by subsection 1 no company shall apply any of its shares or capital, either directly or indirectly, in payment of any commission, discount or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such shares, whether the shares or capital be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or be paid out of the nominal purchase money or contract price or otherwise.

Brokerage
may be paid.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay. 2 Geo. V. c. 31, s. 98.

What com-
panies must
file pros-
pectus.

101.—(1) Every public company before offering to the public for subscription shares, debentures, debenture stock or other securities shall issue a prospectus as hereinafter set out.

Purchases,
subscriptions,
etc., deemed
to be induced
by prospectus.

(2) All purchases, subscriptions or other acquisitions of shares, debentures, debenture stock or other securities of any company required to file a prospectus or a statement in lieu of a prospectus, shall be deemed, as against the company and

the signatories to the prospectus or statement, to be induced by such prospectus or statement, any term, proviso or condition thereof to the contrary notwithstanding.

(3) A subscription for shares, debentures or debenture stock shall not be binding on the subscriber unless at or before the subscription there is delivered to him a copy of the prospectus, if any, issued by the company, or if a prospectus has not been issued a copy of the statement mentioned in section 102.

Delivery of copy of prospectus or statement before subscription.

(4) The subscriber to be entitled to the benefit of subsection 3 must elect to withdraw his subscription before or within ten days after notice of the allotment to him of the shares, debentures, or debenture stock for which he has subscribed. 2 Geo. V. c. 31, s. 99.

Subscriber after notice must elect to withdraw.

102.—(1) A company which does not issue a prospectus on or with reference to its formation shall not allot any of its shares, debentures or debenture stock unless, before the first allotment, there has been filed with the Provincial Secretary, in lieu of a prospectus, a statement, Form 5, signed by every person who is named therein as a director or proposed director of the company or by his agent authorized in writing. 2 Geo. V. c. 31, s. 100 (1).

Statement in lieu of prospectus.

(2) This section shall not apply to a private company or to shares subscribed for by the petitioners for the Letters Patent before the issue thereof. 2 Geo. V. c. 31, s. 100 (2); 3-4 Geo. V. c. 18, s. 33 (17).

Not to apply to private company.

103.—(1) Every prospectus issued by or on behalf of a company shall be dated, and the date shall, unless the contrary is proved, be taken as the date of issue of the prospectus.

Date of prospectus.

(2) A copy of every such prospectus shall be signed by every person who is named therein as a director or proposed director or provisional director of the company, or by his agent authorized in writing, and shall, together with the authority in writing verified by affidavit, be filed with the Provincial Secretary before its issue.

Prospectus to be signed and filed.

(3) The Provincial Secretary shall not receive or file any prospectus unless it is so dated and signed.

Not to be filed until signed, etc.

(4) No prospectus shall be issued until so filed, and every prospectus shall state on the face of it that it has been so filed. 2 Geo. V. c. 31, s. 101.

Not to be issued until filed.

104.—(1) Every prospectus issued by or on behalf of a company or by or on behalf of any person who is or has been engaged or interested in the formation or promotion of the company, shall state—

What to be disclosed in prospectus.

(a) The names, descriptions and addresses of the original incorporators, and the number of shares subscribed for by them respectively;

Particulars as to incorporators.

Qualification
and remuneration of
directors.

(b) The number of shares, if any, fixed as the qualification of a director, and any provision in the by-laws of the company as to the remuneration of the directors;

Directors.

(c) The names, descriptions and addresses of the directors or proposed directors;

Subscription
upon which
allotment
may proceed.

(d) The minimum subscription on which the directors may proceed to allotment, and the amount payable on application and on allotment on each share; and, in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the next preceding two years, and the amount actually allotted, and the amount, if any, paid on the shares so allotted;

Time of
calls.

(e) The time or times at which, under the by-laws of the company, a further call or calls may be made upon shares subscribed for;

Shares and
bonds allotted
for other than
cash consideration.

(f) The number and amount of shares, debentures and debenture stock which within the next preceding two years have been issued or agreed to be issued, as fully or partly paid for, otherwise than in cash, and in the latter case the extent to which they are so paid for, and in either case the consideration for which those shares, debentures or debenture stock have been issued or are proposed or intended to be issued;

Vendors of
property to
company.

(g) The names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus and the amount payable in cash, shares, debentures, debenture stock or other securities to the vendor, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor, but where the vendors or any of them are a firm the members of the firm shall not be treated as separate vendors;

Consideration
for purchase.

(h) The amount, if any, paid or payable as purchase money in cash, shares, debentures, or debenture stock, or other securities, for any such property, specifying the amount, if any, payable for goodwill;

Commissions.

(i) The amount, if any, paid within the next preceding two years or payable as commission for subscribing, or agreeing to subscribe, or procuring

or agreeing to procure subscriptions for any shares in the company, or for underwriting or procuring underwriting of any securities issued or to be issued by the company or the rate of any such commission;

- (j) The amount or estimated amount of preliminary Preliminary expenses. expenses;
- (k) The amount paid within the next preceding three Promoter's remuneration. years or intended to be paid in cash, shares, debentures, debenture stock or other securities, to any promoter and the consideration for any such payment;
- (l) The date of and parties to every material contract, not Particulars as to material contracts. being a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company or a contract entered into more than three years before the date of issue of the prospectus, and a reasonable time and place at which such material contract or a copy thereof may be inspected;
- (m) The names and addresses of the auditors, if any, Names, etc., of auditors. of the company;
- (n) Full particulars of the nature and extent of the Interest of directors in property taken by company. interest, if any, of every director in the promotion of or in the property proposed to be acquired by the company, or where the interest of such director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares by any person either to induce him to become, or to qualify him as a director or otherwise for services rendered by him in connection with the promotion or formation of the company.

(2) For the purposes of this section the word "vendor" "Vendor," what to include. shall extend to and include a person who has entered into any contract, absolute or conditional, for the sale or purchase or for any option of purchase, of any property to be acquired by the company where

- (a) The purchase money is not fully paid at the date of issue of the prospectus; or
- (b) The purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or
- (c) The contract depends for its validity or fulfilment on the result of such issue.

When "vendor" includes "lessor."

(3) Where any of the property to be acquired by the company is to be taken on lease, this section shall apply as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease and the rent, and the expression "sub-purchaser" included a sub-lessee.

Requirements as to original incorporators not essential where issued more than one year after first general meeting.

(4) The requirements as to the original incorporators and the qualification, remuneration, and interest of directors, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date of the first general meeting.

Obligation to disclose material contracts limited.

(5) In the case of a prospectus issued more than one year after the date of such meeting the obligation to disclose all material contracts shall be limited to a period of two years next preceding the issue of the prospectus.

When prospectus advertised in newspapers.

(6) Where the prospectus is published in a newspaper it shall not be necessary to specify in the advertisement the names of the original incorporators and the number of shares subscribed for by them.

Application of section.

(7) This section shall not apply to a circular or notice inviting existing shareholders or debenture holders, or debenture stock holders of a company to subscribe for further shares, debentures or debenture stock; but, except as hereinbefore provided, this section shall apply to any prospectus whether issued on or with reference to the formation of a company or subsequently.

Waiver of compliance with section to be void.

(8) Any condition requiring or binding any applicant for shares or debentures or debenture stock, to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void. 2 Geo. V. c. 31, s. 102.

Penalty.

105.—(1) Every provisional director, director or other person responsible for the issue of a prospectus for every violation of any of the provisions of the next preceding four sections shall incur a penalty not exceeding \$200, unless

Exceptions.

- (a) As regards any matter not disclosed, he was not cognizant thereof; or
- (b) The non-compliance arose from an honest mistake of fact on his part;
- (c) In the case of non-compliance with the requirements of paragraph *n* of subsection 1 of section 104 it is proved that he had no knowledge of the matters not disclosed.

(2) Nothing in this section or the next preceding four sections shall limit or diminish any liability which any person may incur under the general law apart from this Act. Liability under general law not affected.
 2 Geo. V. c. 31, s. 103.

106.—(1) Where any advertisement, letter-head, account or document issued or published by any corporation or any of its officers, agents or employees purports to state the capital of the corporation, unless it is stated to be the authorized capital, then the capital actually and in good faith subscribed and no more shall be so stated. Capital to be correctly stated in advertisements, etc.

(2) Any such corporation, officer, agent or employee who causes to be inserted an advertisement or who publishes, issues or causes to be published or issued any advertisement, letter-head, account or document which states the capital, otherwise than as mentioned in subsection 1, or which contains any false statement as to the incorporation, control, supervision, management or financial standing of such corporation shall incur a penalty of not less than \$50 nor more than \$200. Penalty. 2 Geo. V. c. 31, s. 104.

107.—(1) Where a prospectus or notice invites subscriptions for shares in, debentures, debenture stock or other securities of a company, every person who is a director of the company at the time of the issue of the prospectus or notice, and every person who having authorized such naming of him is named in the prospectus or notice as a director of the company, or as having agreed to become a director of the company, either immediately or after an interval of time, and every promoter of the company and every person who has authorized the issue of the prospectus or notice, shall be liable to pay compensation to all persons who subscribe for any shares, debentures, debenture stock or other securities on the faith of such prospectus or notice for the loss or damage they may have sustained by reason of any untrue statement in the prospectus or notice, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved that Liability for statements in prospectus. Exceptions.

- (a) Having consented to become a director of the company he withdrew his consent before the issue of the prospectus or notice, and that the prospectus or notice was issued without his authority or consent; or
- (b) The prospectus or notice was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was so issued; or
- (c) After the issue of such prospectus or notice and before allotment thereunder, he, on becoming aware of any untrue statement therein, with-

drew his consent thereto, and gave reasonable public notice of such withdrawal and of the reason therefor; or

(d) With respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement was true; or

(e) With respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation, but the director, person named as director, promoter, or person who authorized the issue of the prospectus, shall be liable to pay compensation as aforesaid, if it is proved that he had no reasonable ground to believe that the person making the statement, report or valuation was competent to make it; or

(f) With respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair representation of the statement or copy of or extract from the document.

Imp. Act,
8 Edw. VII.
c. 69, s. 84
(1), (a), (b),
(c).

Who to be
deemed a
promoter.

(2) A promoter in this section shall mean a promoter who was a party to the preparation of the prospectus or notice, or of the portion thereof containing such untrue statement, but shall not include any person by reason of his acting solely in a professional capacity for persons engaged in procuring the formation of the company. 2 Geo. V. c. 31, s. 105.

Statements
in prospectus
for raising
further
capital.

108. Where a company which has issued shares, debentures, debenture stock or other securities is desirous of obtaining further capital by subscriptions for shares, debentures, debenture stock or other securities, and for that purpose issues a prospectus or notice, no director of such company shall be liable in respect of any statement therein unless he authorized the issue of such prospectus or notice or adopted or ratified it. 2 Geo. V. c. 31, s. 106.

Indemnity
where name
of person has
been
improperly
inserted.

109. Where any such prospectus or notice contains the name of a person as a director of a company, or as having agreed to become a director thereof, and such person has not consented to become a director, or has withdrawn his consent before the issue of such prospectus or notice, and has not authorized or consented to the issue thereof, the

directors of the company, except any without whose knowledge or consent the prospectus or notice was issued, and any other person who authorized the issue of such prospectus or notice shall be liable to indemnify the person named as director of the company, or as having agreed to become a director thereof, against all damages, costs, charges and expenses to which he may be made liable by reason of his name having been inserted in the prospectus or notice, or in defending himself against any action or legal proceedings brought against him in respect thereof. 2 Geo. V. c. 31, s. 107.

110. Every person who by reason of his being a director or named as a director, or as having agreed to become a director, or of his having authorized the issue of the prospectus or notice, has become liable to make any payment under the provisions of this Act shall be entitled to recover contribution, as in cases of contract from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of a fraudulent misrepresentation. 2 Geo. V. c. 31, s. 108.

Contribution
from co-
director.

PART VIII.

PUBLIC COMPANIES.

111. This part shall apply to all public companies except those which do not offer shares, debentures or debenture stock to the public for subscription. 2 Geo. V. c. 31, s. 109.

Application of
Part VIII.

112.—(1) No allotment shall be made of any share capital offered to the public for subscription unless

Restrictions
on allotment.
Imp. Act,
1908, s. 85.

(a) The amount, if any, named in the prospectus as the minimum subscription upon which the directors may proceed to allotment; or,

(b) If no amount is so named the whole amount of the share capital so offered for subscription

has been subscribed, and the sum payable on application for the amount so named, or for the whole amount offered for subscription has been paid to and received by the company.

(2) The amount so named and the whole amount shall be reckoned exclusively of any amount payable otherwise than in cash, and is in this Act referred to as the minimum subscription.

Minimum
subscription.

(3) The amount payable on application on each share shall not be less than five per centum of the nominal amount of the share.

Amount pay-
able on
application.

Repayment
where con-
ditions not
complied
with.

(4) If such conditions have not been complied with on the expiration of ninety days after the first issue of the prospectus all money received from applicants for shares shall be forthwith repaid to them without interest, and if any such money is not so repaid within one hundred days after the issue of the prospectus the directors of the company shall be jointly and severally liable to repay that money with interest from the expiration of the ninety days, but a director shall not be liable if he proves that the loss of the money was not due to any misconduct or negligence on his part.

Extension of
time.

(5) The Provincial Secretary may extend the times by this section limited.

Condition
as to waiving
compliance
void.

(6) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

Not to apply
to public
companies.

(7) This section, except subsection 3, shall not apply to any allotment of shares subsequent to the first allotment of shares offered by a public company. 2 Geo. V. c. 31, s. 110.

Effect of
irregular
allotment.
Imp. 1908,
s. 86.

113.—(1) An allotment made by a company to an applicant in contravention of the foregoing provisions of this Part shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company, and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

Director to
compensate
company and
allottee.

(2) If any director of a company knowingly contravenes or permits or authorizes the contravention of any of the foregoing provisions of this Part with respect to allotment he shall be liable to compensate the company and the allottee respectively for any loss, damages or costs which the company or the allottee may have sustained or incurred thereby.

Proceedings
to be com-
menced
within two
years.

*(3) No action shall be brought to recover such loss, damages or costs after the expiration of two years from the date of the allotment. 2 Geo. V. c. 31, s. 111.

Restrictions
on commence-
ment of
business.
s. 87.

114.—(1) A company shall not commence any business or exercise any borrowing powers unless,

(a) Shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and,

(b) Every director of the company has paid to the company on each of the shares taken or contracted to be taken by him, and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered by a public company; and,

- (c) There has been filed with the Provincial Secretary a statutory declaration by the secretary or one of the directors in the prescribed form that such conditions have been complied with and the Provincial Secretary has certified as provided by subsection 2.

(2) The Provincial Secretary may, on the filing of the statutory declaration, certify that the company is entitled to commence business, and the certificate shall be conclusive evidence that the company is so entitled, but upon it being shown that the certificate was made upon any false statement or upon the withholding of any material statement the Provincial Secretary may cancel and annul such certificate.

Certificate that company may commence business.

Cancellation of certificate.

(3) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.

Effect of contracts previously made.

(4) Nothing in this section shall prevent the simultaneous offer for subscription or allotment of any shares, debentures, or debenture stock or the receipt of any money payable on any application.

Simultaneous offer of shares and debentures.

(5) If any company commences business or exercises borrowing powers in contravention of this section every person who is responsible for the contravention shall, without prejudice to any other liability, incur a penalty not exceeding \$50 for every day during which the contravention continues.

Penalty for commencing business before proper time.

(6) Where a company has commenced business without having complied with the requirements of subsection 1 of section 108 of *The Ontario Companies Act, 1907*, and the Lieutenant-Governor in Council is satisfied that the non-compliance was due to inadvertence, error or mistake, and that before commencing business the conditions mentioned in clauses (a) and (b) of that section had been complied with, he may authorize the company to file the statutory declaration *nunc pro tunc*, and if it is filed within one month after the date of the Order in Council it shall have the same effect as if it had been filed before the company commenced business. 2 Geo. V. c. 31, s. 112.

Innocent non-compliance with 7 Edw. VII. c. 84, s. 108.

115. All sums received by the company or by any promoter, director, officer or agent thereof shall be held in trust by the company or such promoter, director, officer or agent until deposited in a chartered bank to the credit of the company and shall be so deposited and there remain in trust until the issue of the certificate by the Provincial Secretary. 2 Geo. V. c. 31, s. 113.

Monies to be held in trust.

Return of
allotments.

Imp. Act,
1908, s. 88.

116.—(1) Where a company makes any allotment of its shares it shall, within two months thereafter, file with the Provincial Secretary:

- (a) A return of the allotments, stating the number and nominal amount of the shares comprised in each allotment, the names, addresses and descriptions of the allottees, and the amount, if any, paid or due and payable on each share; and
- (b) In the case of shares allotted in whole or in part for a consideration other than cash, a contract in writing constituting the title of the allottee to such allotment, together with any contract of sale, or for services or other consideration in respect of which such allotment was made and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, and the consideration for which they have been allotted.

Penalty for
default.

(2) If default is made in complying with the requirements of this section every director, manager, secretary or other officer of the company who is knowingly a party to the default shall incur a penalty not exceeding \$50 for every day during which the default continues. 2 Geo. V. c. 31, s. 114.

Statutory
meetings.

117.—(1) Every company shall, within a period of not less than one month nor more than three months from the date at which the company is entitled to commence business, hold a general meeting of its shareholders, which shall be called the statutory meeting.

[As to notice of meetings, see section 44.]

Report to be
sent to share-
holders.

(2) The directors shall, at least ten days before the day on which the meeting is to be held, send to every shareholder a report certified by not less than two directors stating:

- (a) The total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;
- (b) The total amount of cash received by the company in respect of such shares so distinguished;
- (c) An abstract of the receipts and payments of the company on capital account to the date of the report, and an account or estimate of the preliminary expenses of the company;
- (d) The names, addresses and descriptions of the directors, auditors, if any, manager, if any, and secretary of the company; and

- (e) The particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

(3) The report, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, and to the receipts and payments of the company on capital account, shall be certified as correct by the auditors, if any, of the company. Report to be certified by auditors.

(4) The directors shall cause a copy of the report so certified to be filed with the Provincial Secretary forthwith after the sending thereof to the shareholders. Report to be filed with Provincial Secretary.

(5) The directors shall cause a list showing the names, descriptions and addresses of the shareholders and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any shareholder during the continuance of the meeting. Lists of shareholders to be produced at meeting.

(6) The shareholders present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising out of the report, whether previous notice has or has not been given, but no resolution of which notice has not been duly given may be passed. Shareholders may discuss business of company at meeting.

(7) The meeting may be adjourned from time to time, and at an adjourned meeting any resolution of which notice has been duly given, either before or subsequently to the former meeting, may be passed, and at the adjourned meeting the same powers may be exercised as at an original meeting. Adjournments.

(8) If default is made in filing such report or in holding the statutory meeting, then at the expiration of fourteen days after the last day on which the meeting ought to have been held any shareholder may apply to the Court for the winding up of the company, and the Court may either direct that the company be wound up or give directions for the report being filed or a meeting being held, or make such other order as may be deemed just, and may order that the costs of the application be paid by any person who, in the opinion of the Court, is responsible for the default. 2 Geo. V. c. 31, s. 115. Application to Court if default made in holding meeting.

PART IX.

BOOKS, INSPECTION AND AUDITORS.

118. The corporation shall cause the secretary, or some other officer specially charged with that duty, to keep a book or books wherein shall be kept recorded:— Record books to be kept and contents.

- (a) A copy of the Letters Patent and of any Supplementary Letters Patent issued to the corporation and,

if incorporated by Special Act, a copy of such Act, and the by-laws of the corporation duly authenticated;

- (b) The names, alphabetically arranged, of all persons who are or who have been shareholders or members of the corporation;
- (c) The post office address and calling of every such person while such shareholder or member;
- (d) The names, post office addresses and callings of all persons who are or have been directors of the corporation, with the date at which each person became or ceased to be such director;

And in the case of a corporation having share capital—

- (e) The number of shares held by each shareholder;
- (f) The amounts paid in, and remaining unpaid respectively, on the shares of each shareholder;
- (g) The date and other particulars of all transfers of shares in their order. 2 Geo. V. c. 31, s. 116.

Books to be kept at head office.

119.—(1) The books mentioned in the next preceding section and in section 124, shall be kept at the head office of the corporation within Ontario, whether the company is permitted to hold its meetings out of Ontario or not.

Penalty for removal.

(2) Any director, officer or employee of a corporation who removes or assists in removing such books from Ontario or who otherwise contravenes the provisions of this section shall incur a penalty of \$200.

Proviso.

(3) Upon necessity therefor being shown and adequate assurance given that such books may be inspected within Ontario by any person entitled thereto after application for such inspection to the Provincial Secretary the Lieutenant-Governor in Council may relieve any corporation permitted to hold its meetings out of Ontario from the provisions of this section upon such terms as he may see fit. 2 Geo. V. c. 31, s. 117.

Untrue entries.

120.—(1) No director, officer or employee of the corporation shall knowingly make or assist in making any untrue entry in any of its books, or refuse or neglect to make any proper entry therein.

Penalty.

(2) Any person wilfully violating the provisions of this section shall be liable in damages for all loss or injury which any person interested may have sustained thereby. 2 Geo. V. c. 31, s. 118.

Powers of Judge as to entries in, omissions from and rectification of books.

121.—(1) If the name of any person is, without sufficient cause, entered in or omitted from any such book, or if default is made or unnecessary delay takes place in entering therein the fact of any person having ceased to be a shareholder or member of the corporation, the person or share-

holder or member aggrieved, or any shareholder or member of the corporation, or the corporation itself, may apply to the Supreme Court, for an order that the book or books be rectified, and the Court may either refuse such application or may make an order for the rectification of the book, and may direct the corporation to pay any damages the party aggrieved may have sustained.

(2) The Court may, in any proceeding under this section, decide any question relating to the title of any person who is a party to such proceeding to have his name entered in or omitted from such books, whether such question arises between two or more shareholders, or alleged shareholders, or members, or between any shareholder or alleged shareholder or member and the corporation, and the Court may in any such proceeding decide any question which it may be necessary or expedient to decide for the rectification of the books. Decision as to title.

(3) The Court may direct an issue to be tried. Trial of issue.

(4) An appeal shall lie from the decision of the Court as if the same had been given in an action. Appeal.

(5) This section shall not deprive any Court of any jurisdiction it may otherwise have. Jurisdiction of Courts not affected.

(6) The costs of any proceeding under this section shall be in the discretion of the Court. 2 Geo. V. c. 31, s. 119. Costs.

122.—(1) The books mentioned in section 118 shall, during reasonable business hours of every day, except holidays, be kept open for the inspection of shareholders, members and creditors of the corporation and their personal representatives or agents, at the head office or chief place of carrying on its undertaking, and every such shareholder, member, creditor, agent or representative, may make extracts therefrom. Books to be open for inspection.

(2) Any director or officer who refuses to permit any person entitled thereto to inspect such books, or make extracts therefrom, shall incur a penalty not exceeding \$100. 2 Geo. V. c. 31, s. 120. Liability for refusal to allow inspection of books.

123. Such books shall be *prima facie* evidence of all facts purporting to be therein stated in any action or proceeding against the corporation or against any shareholder or member. 2 Geo. V. c. 31, s. 121. Books to be prima facie evidence.

124. The directors shall cause proper books of account to be kept containing full and true statements of:— Books of account to be kept.

(a) The financial transactions of the corporation;

(b) The assets of the corporation;

(c) The sums of money received and expended by the corporation, and the matters in respect of which such receipt or expenditure took place;

(d) The credits and liabilities of the corporation; and

And minute
books.

a book or books containing minutes of all the proceedings and votes of the corporation, or of the board of directors, respectively, verified by the signature of the president or other presiding officer of the corporation. 2 Geo. V. c. 31, s. 122.

False returns,
etc.

125. If any person in any return, report, certificate, balance-sheet or other document required by or for the purposes of this Act wilfully makes a statement false in any material particular he shall be liable to imprisonment for a term not exceeding three months, and shall incur a penalty not exceeding \$100 in lieu of or in addition to such imprisonment. 2 Geo. V. c. 31, s. 123.

Penalty.

The Court
may appoint
an inspector
to make
investigation.

126.—(1) Upon an application by not less than one-fifth in value of the shareholders of a corporation with share capital, or one-fifth in number of the members of a corporation without share capital, the Supreme Court may appoint an inspector to investigate its affairs and management.

Report on
and expense of
investigation.

(2) Such inspector shall report thereon to the Court, and the expense of such investigation shall, in the discretion of the Court, be defrayed by the corporation or by the applicants, or partly by the corporation and partly by the applicants.

Security for
costs.

(3) The Court may require the applicants to give security to cover the probable cost of the investigation, and may make rules and prescribe the manner in which and the extent to which the investigation shall be conducted.

Corporation
may appoint
for same
purpose.

(4) A corporation may, by resolution passed at the annual meeting, or at a special general meeting called for that purpose, appoint an inspector to examine into the affairs of the corporation.

Powers and
duties of
inspector.

(5) The inspector so appointed shall have the same powers and perform the same duties as an inspector appointed by the Supreme Court, and he shall make his report in such manner and to such persons as the corporation by resolution directs.

Production of
books and
documents.

(6) All officers and agents of the corporation shall produce for the examination of any inspector appointed under this section all books and documents in their custody or power.

Examination
on oath.

(7) Any such inspector may examine upon oath the officers, agents and employees of the corporation in relation to its business.

Penalty for
non-pro-
duction.

(8) If any officer or agent refuses to produce any such book or document, or if any person so examined refuses to answer any question relating to the affairs of the corporation, he shall incur a penalty not exceeding \$20 for each offence. 2 Geo. V. c. 31, s. 124.

127. The accounts of a corporation shall be examined ^{Annual audit.} once at least in every year, and the correctness of the balance-sheet shall be ascertained by an auditor or auditors. 2 Geo. V. c. 31, s. 125.

128. The first auditors of a corporation may be appointed ^{First auditors.} by the directors before the first meeting of the shareholders or members, and shall hold office until the first general meeting. 2 Geo. V. c. 31, s. 126.

129. Thereafter the auditors shall be appointed by resolution at a general meeting of the corporation and shall hold office until the next annual meeting unless previously removed by a resolution of the shareholders or members in general meeting. ^{Subsequent auditors.} 2 Geo. V. c. 31, s. 127.

130. The auditors may be shareholders or members of the corporation, but no person shall be eligible as an auditor who is interested, otherwise than as a shareholder or member, in any transaction of the corporation; and no director or other officer of the corporation shall be eligible during his continuance in office. ^{Auditors may be shareholders.} 2 Geo. V. c. 31, s. 128.

131. If an appointment of auditors is not made at an annual meeting the Provincial Secretary, on the application of any shareholder or member of the corporation, may appoint an auditor for the current year and fix the remuneration, if any, to be paid to him by the corporation for his services. ^{In default, Provincial Secretary may appoint.} 2 Geo. V. c. 31, s. 129.

132. The directors of a corporation may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors, if any, may act, and any auditor shall be eligible for reappointment. ^{Directors may fill casual vacancy.} 2 Geo. V. c. 31, s. 130.

133. The remuneration of the auditors shall be fixed by the corporation in general meeting, except that the remuneration of any auditors appointed before the first general meeting or to fill any casual vacancy may be fixed by the directors. ^{Remuneration of auditors.} 2 Geo. V. c. 31, s. 131.

134.—(1) Every auditor shall have the right of access at all times to the books, accounts and vouchers of the corporation, and may require from the directors and officers of the corporation such information and explanation as may be necessary for the performance of his duties. ^{Rights and duties of auditors.}

(2) The auditors shall sign a certificate at the foot of the balance-sheet stating whether or not their requirements as auditors have been complied with, and shall make a report to the shareholders or members on the accounts examined by them, and on every balance-sheet laid before the corporation in general meeting during their tenure of office; and in ^{Certificate and report.}

every such report shall state whether, in their opinion, the balance-sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the corporation's affairs as shown by its books.

Reading at
general
meeting.

(3) Such report shall be read at the general meeting.
2 Geo. V. c. 31, s. 133.

PART X.

MISCELLANEOUS.

Annual sum-
mary of the
affairs of the
company.

135.—(1) Every corporation shall, on or before the first day of February in every year, make out a summary, verified as hereinafter required, containing as of the thirty-first day of December next preceding, correctly stated, the following particulars:—

Contents of
summary.

- (a) The corporate name of the corporation;
- (b) The manner in which the corporation is incorporated, whether by special Act, or by Letters Patent, and the date thereof;
- (c) The names, residences and post office addresses of the president, secretary, and treasurer of the corporation;
- (d) The name, residence and post office address of each of the directors of the corporation;
- (e) The date upon which the last annual meeting of the corporation was held;

And in the case of a corporation having share capital, in addition,

- (f) The place of the head office, giving street and number when possible;
- (g) The amount of the capital of the corporation and the number of shares into which it is divided;
- (h) The number of shares subscribed for and allotted;
- (i) The number of shares, if any, issued as fully paid up shares as consideration for any transfer of assets, good will or otherwise; if none are so issued, this fact to be stated;
- (j) The amount of calls made on each share;
- (k) The total amount of calls received;
- (l) The total amount of shares forfeited;
- (m) The total amount of shares issued as preference shares and the rate of dividend thereon;

- (n) The total amount paid on such shares;
- (o) The total amount of debentures, debenture stock or bonds authorized, and the rate of interest thereon;
- (p) The total amount of debentures, debenture stock or bonds issued;
- (q) The total amount realized from debentures, debenture stock, and bonds;
- (r) The total number and amount of share warrants issued, and the names, residences and post office addresses of the persons to whom the same were issued;

If the corporation is a mining company to which Part XI. is made applicable,

- (s) The number of shares sold or otherwise disposed of at a discount or premium;
- (t) The rate at which such shares were sold or disposed of;
- (u) Whether a sworn copy of the by-laws, if any, providing for the sale of shares at a discount or otherwise, was sent to the Provincial Secretary;
- (v) The date, or dates upon which such by-laws, if any, were passed and confirmed.

(2) In the case of a corporation having share capital, the summary shall also contain a list, alphabetically arranged, of the persons who, on the 31st day of December next preceding, were shareholders of the company, and the residence and post office address of each such person; the number of shares held by each; and the amount, if any, unpaid thereon. List of shareholders.

(3) A duplicate of such summary with the affidavit of verification shall be posted up in a conspicuous position in the head office of the corporation on or before the 2nd day of February in each year, and may be inspected by any shareholder or creditor of the corporation; and the company shall keep the same so posted until another summary is posted up under the provisions of this Act. Posting of summary.

(4) The summary of every corporation shall be verified by the affidavit of the president and secretary, and if there are no such officers, or they, or either of them, are, or is, at the proper time out of Ontario or otherwise unable to make the same, by the affidavit of the president or secretary and one of the directors, or two of the directors, as the case may require; and if the president or secretary does not make or join in the affidavit the reason therefor shall be stated in the substituted affidavit. Verification thereof.

(5) The summary so verified shall, on or before the 8th day of February next after the time hereinbefore prescribed Transmission to Provincial Secretary.

for making the summary, be transmitted to the Provincial Secretary.

Penalty for default.

(6) If a corporation makes default in complying with the provisions of this section, the corporation shall incur a penalty of \$20 for every day during which the default continues, and every director, manager or secretary of the corporation, who wilfully authorizes or permits such default, shall incur the like penalty, but such penalties shall be recoverable only by action at the suit of the Crown, or of a private person suing on his own behalf with the written consent of the Attorney-General.

When section not to apply.

(7) A corporation shall not be required to comply with the provisions of this section in the calendar year in which it was organized or went into actual operation, whichever first happened.

Corporations incorporated before 1st July, 1907, etc.

7 Edw. VII. c. 34.

(8) Corporations incorporated before the 1st day of July, 1907, under any Act repealed by *The Ontario Companies Act*, (1907), except chapter 191 of the Revised Statutes of Ontario, 1897, and Acts consolidated therewith for which that Act was substituted, shall make such returns under this section as are required from corporations without share capital. 2 Geo. V. c. 31, s. 134.

Return to Provincial Secretary of change of directors, etc.

136. Every company shall make a return to the Provincial Secretary from time to time, as the same occur, of all changes among the directors, and shall incur a penalty, not exceeding \$20 for every contravention of this section. 2 Geo. V. c. 31, s. 135.

Return may be required upon any subject.

137. The Provincial Secretary may, whenever he sees fit, require a corporation to make a return upon any subject connected with its affairs, and the corporation shall make the return within the time mentioned in the notice requiring the same. 2 Geo. V. c. 31, s. 132.

Fees on letters patent, etc., to be fixed by Order-in-Council.

138.—(1) The Lieutenant-Governor in Council may establish, alter and regulate the tariff of fees to be paid on applications, returns, filings and all transactions under this Act; and may prescribe the form of proceedings and record in respect thereof, and all other matters which he may deem requisite for carrying out the objects of this Act.

Fees may vary in amount.

(2) Such fees may be made to vary in amount, having regard to the nature of the corporation, amount of capital and otherwise, as may be deemed expedient.

Restriction.

(3) No step shall be taken towards the issue of any Letters Patent or Supplementary Letters Patent or the filing of any document under this Act, until all fees therefor and all fees due for any other service have been duly paid. 2 Geo. V. c. 31, s. 136.

139. No tender or transmission of any return, by-law or other document shall be a due compliance with the provisions of this Act unless and until the prescribed fee for receiving and filing the same has been paid to and has been accepted by the Provincial Secretary. 2 Geo. V. c. 31, s. 137. No compliance with Act to file returns, etc., without payment of fees.

140. A copy of any by-law of a corporation under its seal and purporting to be signed by any officer of the corporation or a certificate, similarly authenticated, to the effect that a person is a shareholder or member of the corporation, and that dues or other sums payable are due and have not been paid or that a call or assessment has been made, is due and has not been paid, shall be received as *prima facie* evidence of the by-law or of the statements contained in such certificate in all Courts. 2 Geo. V. c. 31, s. 138. Evidence of by-laws.

141. A document or proceeding requiring authentication by a corporation may be signed by any director, manager or other authorized officer of the corporation, and need not be under its seal. 2 Geo. V. c. 31, s. 139. Authentication of summons and notices.

142. A notice or demand to be served or made by a corporation upon a shareholder or member may be served or made either personally or by registered post, addressed to the shareholder or member at his place of abode as it last appeared on the books of the corporation. 2 Geo. V. c. 31, s. 140. Service of notices.

143. A notice or other document served by post by a corporation on a shareholder or member shall be deemed to be served at the time when it would be delivered in the ordinary course of post. 2 Geo. V. c. 31, s. 141. Time of service.

144. Any by-law by this Act requiring confirmation by the shareholders or members of the corporation may in lieu of confirmation at a general meeting be confirmed by the consent in writing of all the shareholders or members. 2 Geo. V. c. 31, s. 142. Sanctioning by-laws by written consent of all shareholders.

145. Proof of any matter which may be necessary to be made under this Act may be made by statutory declaration, affidavit, or deposition before the Provincial Secretary, or any officer to whom the matter may be referred by him, or before any person authorized to take affidavits. 2 Geo. V. c. 31, s. 143. Proof of matters under this Act.

PART XI.

MINING COMPANIES.

146. A mining company incorporated before the first day of July, 1907, or thereafter incorporated under *The Ontario Companies Act* (1907), or under *The Ontario Companies Act* (1912), or under this Act, and made by the Letters Patent subject to the provisions of this Part, may issue its shares at Issuing shares at a discount, 7 Edw. VII. c. 34. 2 Geo. V. c.

a discount or at any other rate in the manner hereinafter prescribed. 2 Geo. V. c. 31, s. 144.

Shareholders
not personally
liable for
calls.

147. No shareholder of such a company holding shares, issued as herein provided, shall be personally liable for non-payment of any calls made upon his shares beyond the amount agreed to be paid therefor. 2 Geo. V. c. 31, s. 145.

By-law au-
thorizing
issue of
shares at a
discount.

148. No shares shall be issued at a discount unless authorized by a by-law of the company fixing and declaring the rate and any other terms and conditions of the issue, confirmed at a general meeting of the shareholders duly called for considering the same. 2 Geo. V. c. 31, s. 146.

Verified copy
of by-law to
be transmitted
to Provincial
Secretary.

149. A copy of such by-law, within twenty-four hours after the same has been confirmed, shall be transmitted by registered post to the Provincial Secretary, or be filed in his office within five days, and such copy shall be verified as a true copy by the joint affidavit of the president and secretary, and if there are no such officers, or they, or either of them, are, or is, at the proper time unable to make the same, by the affidavit of the president or secretary and one of the directors, or of two of the directors, as the case may require; and if the president or secretary does not make or join in the affidavit the reason therefor shall be stated in the substituted affidavit. 2 Geo. V. c. 31, s. 147.

What notice to
appear on
documents
issued by
company.

150. Every such company shall have written or printed, immediately after or under its name, wherever such name is used by the company or by any director, officer, servant or employee thereof, and shall have engraved upon its seal the words "NO PERSONAL LIABILITY"; and upon every share certificate issued by the company, distinctly written or printed in red ink, where such share certificates are issued in respect of shares subject to call, the words "SUBJECT TO CALL"; or, if in respect to shares not subject to call, the words "NOT SUBJECT TO CALL," according to the fact. 2 Geo. V. c. 31, s. 148.

Sale of
shares on
non-payment
of calls.

151.—(1) In the event of any call on shares of such a company remaining unpaid by the holder thereof for a period of sixty days after notice and demand of payment, such shares may be declared to be in default, and the secretary of the company may advertise such shares for sale at public auction to the highest bidder for cash by giving notice of such sale in a newspaper published at the place where the principal office of the company is situate, or if no newspaper is published there, then in a newspaper published at the nearest place to such office, once a week for four successive weeks.

Notice
of sale.

Contents of.

(2) The notice shall contain the numbers of the share certificates in respect of such shares and the number of shares, the amount of the call or calls due and unpaid and the time and place of sale.

(3) In addition to the publication of the notice, it shall be personally served upon such shareholder or sent to him by registered post addressed to him at his last known place of abode. Service and publication.

(4) If the holder of such shares fails to pay the amount due thereon, with interest and the cost of advertising, before the time fixed for such sale, the secretary shall proceed to sell the same, or such portion thereof as shall suffice to pay such calls together with interest and the cost of advertising and of the sale. Sale in default of payment.

(5) If the price of the shares so sold exceeds the amount due with interest and costs, the excess shall be paid to the defaulting shareholder on demand. Surplus of proceeds. 2 Geo. V. c. 31, s. 149.

152.—(1) A company which acts in contravention of any provision of this Part and every director, manager or officer thereof shall incur a penalty of \$200. Penalty.

(2) A director, manager or officer who proves that he was not a party or privy to the act, and that when he became aware of it he forthwith gave notice thereof to the Provincial Secretary, shall not be liable to the penalty imposed by this section. Relief from penalty. 2 Geo. V. c. 31, s. 150.

PART XII.

COMPANIES OPERATING MUNICIPAL FRANCHISES AND PUBLIC UTILITIES.

Incorporation and Powers.

153. This Part shall apply to all applications for incorporation of companies intended to operate or control any public or municipal franchise, undertaking or utility and which may require for its purposes the erection of any permanent structure in or upon any highway, stream or adjoining navigable waters, and to such companies when incorporated. Application of this Part of Act. 2 Geo. V. c. 31, s. 151.

154. With the application for incorporation the applicants shall produce to the Provincial Secretary: Material to be produced on application.

- (a) Evidence that the proposed capital is sufficient to carry out the objects for which the company is to be incorporated; that such capital has been subscribed or underwritten, and that the applicants are likely to command public trust and confidence in the undertaking;
- (b) A detailed description of the plant, works and intended operations of the company, and an estimate of their cost;

- (c) A by-law of every municipality in which the operations of the company are to be carried on, authorizing the execution thereof in the manner set out in such detailed description, where the consent of the council of the municipality is required by law to authorize the company to carry on its operations therein;
- (d) If the undertaking is to be carried on, or in so far as it is to be carried on, in territory without municipal organization, a report from the Minister of Lands, Forests and Mines approving of the undertaking;
- (e) If it is proposed that the company shall acquire any plant, works, land, undertaking, good will, contract or other property or assets, a detailed statement of the nature and value thereof;
- (f) Such further information as the Provincial Secretary may require. 2 Geo. V. c. 31, s. 152.

Referring
application
to engineers,
etc., for
report.

155. The Provincial Secretary may refer the application and all statements, evidence and material filed thereon to engineers, architects, valuers or other experts for consideration, investigation and report regarding the public necessity for the undertaking, the amount of capital required therefor, the value of any plant, works, lands, undertaking, good-will, contract or other property or assets to be acquired and any other matter which may appear to be in the public interest regarding the undertaking. 2 Geo. V. c. 31, s. 153.

Letters
Patent
to be issued
on Order-in-
Council.

156. All Letters Patent and Supplementary Letters Patent of companies to which the provisions of this Part apply and of all companies heretofore incorporated for any of the purposes mentioned in section 153, shall be issued on the authority of the Lieutenant-Governor in Council, and such Letters Patent or Supplementary Letters Patent may be issued in terms and on conditions different from those applied for. 2 Geo. V. c. 31, s. 154.

Notice of
application.

157. Notice of the application shall be published in such manner and shall be given to such persons as the Provincial Secretary may determine. 2 Geo. V. c. 31, s. 155.

Limitations
in charter.

158. The Letters Patent or Supplementary Letters Patent, may limit the term of the existence of the company, the rate of dividend payable on the shares of the capital stock, the amount which the company may borrow on debentures, debenture stock, mortgages or other securities and the rate of interest thereon. 2 Geo. V. c. 31, s. 156.

Proofs, etc.,
to be produced
on application
for Supple-
mentary
Letters
Patent.

159. Upon an application for Supplementary Letters Patent extending the powers, increasing the capital or otherwise varying any term of the Letters Patent the company shall produce such evidence and statements as are referred to in section 154, and he may refer the same in the manner and for the purposes set out in section 155. 2 Geo. V. c. 31, s. 157.

160. The Supplementary Letters Patent may fix the conditions upon which any shares, debentures, debenture stock or other securities of the company, therein authorized to be issued, may be allotted, sold or otherwise disposed of, and may be issued in terms and on conditions different from those applied for, and may vary any term or condition of the application. 2 Geo. V. c. 31, s. 158.

Supplementary Letters Patent, what may be contained in.

161. No provision contained in this Part or in the Letters Patent or Supplementary Letters Patent regarding the issue of debentures or other securities or the making of mortgages to secure the same shall in any way prejudice the right which any municipality may have to acquire or take possession of the plant and undertaking of the company. 2 Geo. V. c. 31, s. 159.

Rights of municipality preserved.

162.—(1) The company may pass by-laws regarding the control and management of its undertaking, its dealings with the public, the collection of tolls, charges, rates or levies for the public service given by the company, and for the use, protection and care of its property while being used, enjoyed or otherwise subject to public use; but no such by-laws shall have any force or effect or be acted upon until approved by the Lieutenant-Governor in Council and notice of the approval has been published four times in a public newspaper published at the place where the undertaking of the company is carried on, or as near thereto as may be, and in the *Ontario Gazette*, unless such publication is dispensed with by the Minister. 2 Geo. V. c. 31, s. 160 (1); 3-4 Geo. V. c. 18, s. 34 (3).

Company may pass by-laws for control, etc., of undertaking.

(2) Every person who contravenes any of the provisions of any such by-law shall incur a penalty not exceeding \$20. 2 Geo. V. c. 31, s. 160 (2).

Penalty.

163. In addition to the other returns which are required by this or any other Act the company shall on or before the 8th day of February in each year make a report to the Provincial Secretary, verified as provided by subsection 4 of section 135, which shall specify

Additional returns.

- (a) The cost of the work, plant and undertaking of the company;
- (b) The amount of its capital, and the amount paid thereon;
- (c) The amount received during the year from tolls, levies, rates and charges and all other sources, stating each separately;
- (d) The amount and rate of dividends paid;
- (e) The amount expended for repairs; and
- (f) A detailed description of any extension or improvement of the works or of any new works proposed

to be undertaken in the current year, together with an estimate of the cost thereof. 2 Geo. V. c. 31, s. 161.

Inspection
of books.

164. The Provincial Secretary may appoint a person to inspect and examine the books of account of the company, and every person so appointed may take copies or extracts from the same, and may require and receive from the keeper of such books, and also from the president and each of the directors of the company, and all the other officers and servants thereof, all such information as to such books and the affairs of the company generally as the person so appointed deems necessary for the full and satisfactory investigation into and report upon the state of the affairs of the company so as to enable him to ascertain the correctness of statements furnished by the company. 2 Geo. V. c. 31, s. 162.

Existence of
company may
be extended
by supplement-
ary letters
patent.

165. The Lieutenant-Governor in Council may, by Supplementary Letters Patent, extend the term of existence of any company incorporated for a limited period under this or heretofore incorporated under any other general Act for such further period as by Order-in-Council, made previous to the expiry of such period, he may direct, and the provisions of this Act relating to the expiration of the term of existence of a company shall thereupon apply to such term as so extended. 2 Geo. V. c. 31, s. 163.

Expropriation.

Powers of
expropriation.

166.—(1) A company to which this section is made applicable by the Letters Patent or Supplementary Letters Patent may take, without the consent of the owner thereof, such lands and easements as may be necessary for the purposes of its undertaking, in like manner, as under the provisions of *The Ontario Railway Act*, lands may be expropriated for the purpose of a railway; but any such right of expropriation may be limited or the application of any section of that Act may be excluded.

Rev. Stat.
c. 185.

Application
of section.

(2) This section shall apply to a company heretofore incorporated under any general or special Act. 2 Geo. V. c. 31, s. 164.

PART XIII.

WINDING UP OF COMPANIES.

Generally.

Nature of lia-
bility of con-
tributory.

167. The liability of any person to contribute to the assets of a corporation under this Act, in the event of the same being wound up, shall be deemed to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned for enforcing such liability. 2 Geo. V. c. 31, s. 165.

168. If a contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives, heirs and devisees shall be liable in due course of administration to contribute to the assets of the corporation in discharge of the liability of such deceased contributory and shall be deemed to be contributories accordingly. 2 Geo. V. c. 31, s. 166.

Who liable
in case of
his death.

Voluntary Winding up.

169. A corporation may be wound up voluntarily

- (a) Where the period, if any, fixed for the duration of the corporation by the Act, Letters Patent or instrument of incorporation, or by Supplementary Letters Patent has expired; or where the event, if any, has occurred, upon the occurrence of which it is provided by the Act or Letters Patent or instrument of incorporation or by Supplementary Letters Patent that the corporation is to be dissolved, and the corporation in general meeting has passed a resolution requiring the corporation to be wound up;
- (b) Where the corporation, in general meeting called for that purpose, has passed a resolution requiring the corporation to be wound up;
- (c) Where the corporation, though it may be solvent as respects creditors, has passed a resolution in general meeting to the effect that it has been proved to its satisfaction that the corporation cannot, by reason of its liabilities, continue its business and that it is advisable to wind it up.

Voluntary
winding up.

2 Geo. V. c. 31, s. 167.

170. A winding up shall be deemed to commence at the time of the passing of the resolution authorizing the winding up. 2 Geo. V. c. 31, s. 168.

Commence-
ment of
winding up.

171. Whenever a corporation is wound up voluntarily the corporation shall, from the date of the commencement of such winding up, cease to carry on its undertaking, except in so far as may be required for the beneficial winding up thereof; and all transfers of shares, except transfers made to or with the sanction of the liquidators, or alterations in the status of the shareholders or members of the corporation, taking place after the commencement of such winding up, shall be void; but its corporate state and all its corporate powers, notwithstanding that it is otherwise provided by its constituting instrument or by-laws, shall continue until the affairs of the corporation are wound up. 2 Geo. V. c. 31, s. 169.

Corporation
to cease busi-
ness.

172. Notice of any resolution passed for winding up a corporation voluntarily shall be given by advertisement in the *Ontario Gazette*, and shall be filed in the office of the Provincial Secretary. 2 Geo. V. c. 31, s. 170.

Publication
of notice of
winding up.

No proceedings against corporation after winding up.

Except by leave.

Exception.
R.S.O. 1906,
c. 144.

173.—(1) After the commencement of the winding up, no action or other proceeding shall be proceeded with or commenced against the corporation, and no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation, except by leave of the Court and subject to such terms as the Court may impose.

(2) This section shall not apply to any proceeding taken under *The Winding-up Act of Canada*, or other Act respecting Insolvency or Bankruptcy for the time being in force. 2 Geo. V. c. 31, s. 171.

Consequences of winding up.

Application of assets.

Priority of claims of certain employees to what extent.

Appointment of liquidator and remuneration.

Idem.

Powers of directors to cease.

Powers to be exercised by liquidators.

Settlement of list of contributories.

174. Upon a voluntary winding up:

- (a) The property of the corporation shall be applied in satisfaction of all its liabilities *pari passu*, and, subject thereto, shall, unless it is otherwise provided by the by-laws of the corporation, be distributed rateably amongst the shareholders or members according to their rights and interests in the corporation;
- (b) In distributing the assets of the corporation, the salary or wages of all clerks and wage-earners in the employment of the corporation due at the date of the commencement of the winding up or within one month before, not exceeding three months' salary or wages, shall be paid in priority to the claims of the ordinary general creditors, and such persons shall be entitled to rank as ordinary or general creditors for the residue of their claims;
- (c) The corporation in general meeting shall appoint such person or persons as it thinks fit to be a liquidator or liquidators for the purpose of winding up the affairs of the corporation and distributing its property, and shall fix the remuneration to be paid to him or them;
- (d) If one person only is appointed all the provisions in reference to several liquidators shall apply to him;
- (e) Upon the appointment of liquidators all the powers of the directors shall cease except in so far as the corporation in general meeting or the liquidators may sanction the continuance of such powers;
- (f) Where several liquidators are appointed every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or in default of such determination by any number not less than two;
- (g) The liquidators shall settle the list of contributories, and any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories;

- (h) The liquidators may at any time after the passing of the resolution for winding up, and before they have ascertained the sufficiency of the assets of the corporation, call on all or any of the contributories, for the time being settled on the list of contributories, to the extent of their liability to pay any sum which they may deem necessary to satisfy the debts and liabilities of the corporation, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves; and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same; Demand payment from contributories.
- (i) The liquidators shall pay the debts of the corporation and adjust the rights of the contributories, shareholders or members amongst themselves. Liquidators to pay debts of corporation.
2 Geo. V. c. 31, s. 172.

175. All costs, charges and expenses properly incurred in the winding up, including the remuneration of the liquidators, after taxation by one of the Taxing Officers of the Supreme Court at Toronto who is hereby empowered to tax the same, shall be payable out of the assets of the corporation in priority to all other claims. Payment of costs and expenses. 2 Geo. V. c. 31, s. 173.

176.—(1) The liquidators shall have power to:

- (a) Bring or defend any action, suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the corporation; Power of liquidators. Bring or defend actions.
- (b) Carry on the business of the corporation so far as may be necessary for the beneficial winding up of the same; Carry on business of corporation.
- (c) Sell *en bloc* or in parcels the real and personal property, effects and things in action of the company by public auction or private contract; Sell by public auction or private contract.
- (d) Do all acts and execute, in the name and on behalf of the corporation, all deeds, receipts and other documents, and for that purpose use the seal of the corporation; Execute deeds, etc.
- (e) Draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation; Draw and endorse promissory notes, etc.
- (f) Raise upon the security of the assets of the corporation from time to time any requisite sum or sums of money; Raise sums necessary.

Take out letters of administration, etc.

(g) Take out in their official name letters of administration to the estate of any deceased contributory and do in their official name any other act that may be necessary for obtaining payment of any money due from a contributory or from his estate and which act cannot be conveniently done in the name of the corporation;

Do all other things necessary.

(h) Do and execute all such other things as may be necessary for winding up the affairs of the corporation and distributing its assets.

Bills of Exchange, etc., to be deemed drawn in due course.

(2) The drawing, accepting, making or endorsing of a bill of exchange or promissory note on behalf of the corporation shall have the same effect with respect to the liability of the corporation as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of such corporation in the course of carrying on the business thereof.

When moneys deemed to be due to liquidators.

(3) Where the liquidators take out letters of administration or otherwise use their official name for obtaining payment of any money due from a contributory, such money shall be deemed, for the purpose of enabling them to take out such letters or recover such money, to be due to the official liquidators themselves. 2 Geo. V. c. 31, s. 174.

Inspectors.

177. A corporation about to be wound up voluntarily, or in the course of being so wound up, may, in general meeting, by resolution, delegate to any committee of its shareholders or members, contributories or creditors, hereinafter referred to as inspectors, the power of appointing liquidators and filling any vacancies in the office of liquidators, or may by a like resolution enter into any arrangement with its creditors with respect to the powers to be exercised by the liquidators and the manner in which they are to be exercised. 2 Geo. V. c. 31, s. 175.

Deposit in bank by liquidators.

178.—(1) The liquidators shall deposit at interest in some chartered bank at a branch or agency in Ontario all sums of money which they may have in their hands belonging to the corporation, whenever such sums amount to \$100.

Approval of bank by inspectors.

(2) If inspectors have been appointed the bank shall be one approved by them.

Separate deposit account to be kept; withdrawal from account.

(3) Such deposit shall not be made in the name of the liquidators generally, but a separate deposit account shall be kept of the money belonging to the corporation, in the name of the liquidators as such, and of the inspectors, if any; and such money shall be withdrawn only on the joint cheque of the liquidators and one of the inspectors, if there be any.

Liquidators to produce bank pass book.

(4) At every meeting of the shareholders or members of the corporation the liquidators shall produce a pass-book, showing the amount of the deposits, the dates at which they

were made, the amounts withdrawn and dates of withdrawal; of which production mention shall be made in the minutes of the meeting, and the absence of such mention shall be *prima facie* evidence that the pass-book was not produced at the meeting.

(5) The liquidators shall also produce the pass-book when-^{Idem.} ever so ordered by the Court upon the application of the inspectors or of a shareholder or member of the corporation. 2 Geo. V. c. 31, s. 176.

179.—(1) The liquidators may from time to time, during Meetings of corporation during winding up. the continuance of the winding up, summon general meetings of the corporation for the purpose of obtaining the sanction of the corporation by resolution, or for any other purpose they think fit.

(2) In the event of the winding up continuing for more than one year the liquidators shall summon a general meeting of the corporation at the end of the first year and of each succeeding year from the commencement of the winding up, and shall lay before such meeting an account showing their acts and dealings, and the manner in which the winding up has been conducted during the preceding year. 2 Geo. V. c. 31, s. 177. ^{Where winding up continues more than one year.}

180. If any vacancy occurs in the office of liquidators appointed by the corporation by death, resignation or otherwise the corporation in general meeting may, subject to any arrangement it may have entered into with its creditors, upon the appointment of inspectors, fill such vacancy, and a general meeting for that purpose may be convened by the continuing liquidators, if any, or by any contributory, and shall be deemed to have been duly held in the manner prescribed by the by-laws of the corporation, or, in default thereof, in the manner prescribed by this Act for calling general meetings of the shareholders or members of the corporation. 2 Geo. V. c. 31, s. 178. ^{Vacancy in office of liquidator.}

181. The provisions of section 56 of *The Trustee Act* shall apply *mutatis mutandis* to liquidators. 2 Geo. V. c. 31, s. 179. ^{Distribution of assets. Rev. Stat. c. 121.}

182. The liquidators, with the sanction of a resolution of the corporation in general meeting or of the inspectors, may make such compromise or other arrangement, as the liquidators deem expedient, with any creditor, or person claiming to be a creditor, or having or alleging that he has any claim, present or future, certain or contingent, ascertained or sounding only in damages, against the corporation or whereby the corporation may be rendered liable. 2 Geo. V. c. 31, s. 180. ^{Arrangements may be authorized with creditors.}

183. The liquidators may, with the like sanction, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, whether present ^{Power to compromise with debtors and contributories.}

or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the corporation and any contributory, alleged contributory or other debtor or person apprehending liability to the corporation and all questions in any way relating to or affecting the assets of the corporation, or the winding up of the corporation, upon the receipt of such sums, payable at such times and generally upon such terms as may be agreed upon; and the liquidators may take any security for the discharge of such calls, debts or liabilities and give a complete discharge in respect thereof. 2 Geo. V. c. 31, s. 181.

Take
security.

Power to
accept
shares, etc.,
as a con-
sideration for
sale of prop-
erty to
another
company.

184.—(1) Where a corporation is proposed to be or is in the course of being wound up, and the whole or a portion of its business or property is proposed to be transferred or sold to another corporation, the liquidators of the first mentioned corporation, with the sanction of a resolution in general meeting of the corporation by which they were appointed conferring either a general authority on the liquidators or an authority in respect of any particular arrangement, may receive, in compensation or in part compensation for such transfer or sale, shares or other like interest in such other corporation for the purpose of distribution among the shareholders or members of the corporation which is being wound up, or may, in lieu of receiving cash, shares, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing corporation.

Sale or
arrangement
by liquidators.
binding unless
a member
objects.

(2) Any sale made or arrangement entered into by the liquidators in pursuance of this section shall be binding on the shareholders or members of the corporation which is being wound up, subject to the proviso that if any shareholder or member who has not voted in favour of the resolution expresses his dissent from any such resolution in writing, addressed to the liquidators or one of them and left at the head office of the corporation or the place where its undertaking is carried on, not later than seven days after the date of the meeting at which such resolution was passed, such dissentient member may require the liquidators to do such one of the following things as the liquidators may prefer, that is to say, either (a) to abstain from carrying such resolution into effect, or (b) to purchase the interest held by such dissentient member at a price to be determined in manner hereinafter mentioned, such purchase-money to be paid before the corporation is dissolved, and to be raised by the liquidators in such manner as may be determined by resolution of the corporation.

Proceedings
on objection.

Special resolu-
tion not in-
valid because
prior to
resolution to
wind up.

(3) No resolution shall be deemed invalid for the purposes of this section by reason that it is passed antecedently to or concurrently with a resolution for winding up the corporation or for appointing liquidators.

Price pay-
able to dissen-
tient member.

(4) The price to be paid for the purchase of the interest of any dissentient shareholder or member may be determined

by agreement; but if the parties differ as to the same the price shall be determined by arbitration. 2 Geo. V. c. 31, s. 182.

185. For the purpose of proving claims, sections 26, 27 ^{Proving claims, Rev. Stat. c. 134.} and 28 of *The Assignments and Preferences Act* shall *mutatis mutandis* apply except that where the word "Judge" is used there shall be substituted for it the words "Master or Local Master mentioned in section 186." 2 Geo. V. c. 31, s. 183.

186.—(1) The Master in Ordinary where the head office of the corporation is in the County of York, or the Local Master where the head office is in any other county or in a district or the Master in Ordinary or any Local Master where a Judge of the Supreme Court deems it more convenient that the application should be made to him, and so directs or allows upon the application of the liquidators or of the Inspectors or of any creditor affected by the provisions of section 182, and after hearing such parties as he shall direct to be notified, or after such steps as he may prescribe have been taken, may give his opinion, advice or direction in any matter arising in the liquidation, and the same shall be followed and shall be binding upon all parties in the liquidation, subject to an appeal to a Judge of the Supreme Court in Chambers, if leave to appeal is given by such Master or Local Master or by a Judge of the Supreme Court, and the order of the Judge shall be final and binding in the liquidation. ^{Application to Master in Ordinary or Local Master for opinion. By liquidators or inspectors.}

(2) A creditor affected by anything done, or proposed to be done under the authority of section 184, shall have the like right to apply in respect thereof, and in other respects the provisions of subsection 1 shall apply. 2 Geo. V. c. 31, s. 184. ^{By creditors.}

Winding up under Order of the Court.

187. A corporation may be wound up by order of the Supreme Court: ^{Winding up by Court.}

- (a) Where it may be wound up voluntarily;
- (b) Where proceedings have been begun to wind up voluntarily and it appears to the Court that it is in the interests of contributories and creditors that they should be continued under the supervision of the Court;
- (c) Where in the opinion of the Court it is just and equitable for some reason other than the bankruptcy or insolvency of the corporation that it should be wound up;
- (d) Where the Letters Patent have been declared forfeited or revoked or made void. 2 Geo. V. c. 31, s. 185.

Who may
apply.

188.—(1) The winding-up order may be made by a Judge or Local Judge of the Supreme Court in Chambers upon the petition of the corporation or of a shareholder or member or, when the corporation is being wound up voluntarily, of the liquidator or a contributory or of a creditor having a claim of \$200 or upwards.

Notice.

(2) Except where the application is made by the corporation four days' notice shall be given to the corporation before the making of the same. 2 Geo. V. c. 31, s. 186.

Commence-
ment of
winding up.

189. Where a winding-up order is made by the Court without prior voluntary winding-up proceedings the winding up shall be deemed to commence at the time of service of notice of the presentation of the petition. 2 Geo. V. c. 31, s. 187.

Powers of
Court.

190. The Court may make the order applied for or may dismiss the petition with or without costs, may adjourn the hearing conditionally or unconditionally, or may make any interim or other order as may be deemed just; and upon the making of the order may, according to its practice and procedure, refer the proceedings for the winding up, and may also delegate any powers of the Court conferred by this Act to any officer of the Court. 2 Geo. V. c. 31, s. 188.

Appointment
of liquidator.

191.—(1) The Court in making the winding-up order may appoint a liquidator or liquidators of the estate and effects of the corporation; but no such liquidator shall be appointed unless a previous notice is given to the creditors, contributories, shareholders or members in the manner and form prescribed by the Court.

Notice,
when not
necessary.

(2) If a liquidator has already been appointed in a voluntary liquidation such notice need not be given. 2 Geo. V. c. 31, s. 189.

Appointment
by Court.

192.—(1) If from any cause there is no liquidator acting either provisionally or otherwise the Court may on the application of a shareholder or member of the corporation appoint a liquidator or liquidators.

Removal of
liquidator.

(2) The Court may also, for due cause, remove a liquidator and appoint another liquidator.

The case of
no liquidator.

(3) When there is no liquidator the estate shall be under the control of the Court until the appointment of a liquidator. 2 Geo. V. c. 31, s. 190.

Proceedings in
winding up
after order.

193. When a winding-up order has been made proceedings for the winding up of the corporation shall be taken in the same manner and with the like consequences as hereinbefore provided for a voluntary winding up, except that the list of contributories shall be settled by the Court unless the same has been settled by the liquidator prior to the winding-up

order, in which case such list shall be subject to review by the Court, and except that all proceedings in the winding up shall be subject to the order and direction of the Court. 2 Geo. V. c. 31, s. 191.

194.—(1) The Court may direct meetings of the share-^{Meetings of} holders or members of the corporation to be summoned, held and conducted in such manner as the Court deems fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report ^{Chairman.} the result of it to the Court.

(2) The Court may require any contributory for the time ^{Order for} being settled on the list of contributories, or any trustee, receiver, banker or agent or officer of the corporation to pay, deliver, convey, surrender or transfer forthwith, or within ^{delivery by} such time as the Court directs, to the liquidator any sum or balance, books, papers, estate, or effects which are in his hands and to which the corporation is *prima facie* entitled. ^{contributories} ^{and others} ^{of property,} ^{etc.}

(3) The Court may make such order for the inspection by ^{Inspection} the creditors and contributories of the corporation of its books and papers as the Court deems just; and any books and papers in the possession of the corporation may be inspected in conformity with the order of the Court, but not further or otherwise. 2 Geo. V. c. 31, s. 192. ^{of books.}

195.—(1) The Court may, at any time after the commencement of the winding up, summon to appear before the Court or liquidator any officer of the corporation, or any other person known or suspected to have in his possession any of the estate or effects of the corporation, or supposed to be indebted to it, or any person whom the Court may deem capable of giving information concerning its trade, dealings, estate or effects. ^{Examination of} ^{persons before} ^{court or} ^{liquidator.}

(2) Where in the course of the winding up it appears that any person who has taken part in the formation or promotion of the corporation or any past or present director, manager, or official or other liquidator, or receiver, or any officer or employee of the corporation has misapplied, or retained in his own hands, or become liable or accountable for, money of the corporation, or been guilty of any misfeasance or breach of trust in relation to it, the Court may, on the application of a liquidator or of any creditor or contributory, examine into the conduct of the person charged and compel him to repay the money so misapplied or retained, or for which he has become liable or accountable, together with interest at such rate as the Court deems just, or to contribute such sum to the assets of the corporation by way of compensation in respect of such misapplication, retainer, misfeasance or breach of trust as the Court deems just. 2 Geo. V. c. 31, s. 193. ^{Power of} ^{court to} ^{assess damages} ^{against} ^{delinquent} ^{directors, etc.}

Proceedings
by share-
holders at their
own expense
and for their
own benefit
only.

196.—(1) If a shareholder or member of the corporation desires to cause any proceeding to be taken which, in his opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the shareholders or members, or of the inspectors, refuses or neglects to take such proceeding, after being required so to do, the shareholder or member may obtain an order of the Court authorizing him to take such proceeding in the name of the liquidator or corporation, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator or corporation as the Court may prescribe.

Benefits,
when ex-
clusively for
shareholders.

(2) Thereupon any benefit derived from such proceeding shall belong exclusively to the shareholder or member instituting the same for his benefit and that of any other shareholder or member who may have joined him in causing the institution of such proceeding.

Benefits,
when for
corporation.

(3) If before such order is granted the liquidator signifies to the Court his readiness to institute such proceeding for the benefit of the corporation, an order shall be made prescribing the time within which he shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, shall belong to the corporation. 2 Geo. V. c. 31, s. 194.

Rights
conferred
by Act to be
in addition
to other
powers.

197. The rights conferred by this Act shall be in addition to any other right of instituting proceedings against any contributory, or against any debtor of the corporation, for the recovery of any call or other sum due from such contributory or debtor or his estate. 2 Geo. V. c. 31, s. 195.

Stay of pro-
ceedings.

198. At any time after an order has been made for winding up, the Court, upon the application of any contributory and upon proof to its satisfaction that all proceedings in relation to the winding up ought to be stayed, may make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as the Court deems fit. 2 Geo. V. c. 31, s. 196.

Appeal.

199. An appeal shall lie from any order or decision of a Local Judge, or of any officer to whom a reference is made, to a Judge of the Supreme Court sitting in Court, as in the case of an appeal from the master's report in an action. 2 Geo. V. c. 31, s. 197.

To Divisional
Court.

R.S.C. 1906,
c. 144, s. 101,
part.

200. An appeal shall lie to a Divisional Court by leave of a Judge of the Supreme Court from any order or decision of a Judge of that Court in any proceeding in a winding up under an order of the Court when—

(a) The question raised on the appeal involves future rights; or

(b) The order or decision is likely to affect other cases of a similar nature in the winding up proceedings; or

(c) The amount involved in the appeal exceeds \$500;

and the decision of the Divisional Court shall be final. 2 Geo. V. c. 31, s. 198. Decision final.

201. The Lieutenant-Governor in Council may make rules for the due carrying out of the provisions of this Part, and, except as otherwise provided by this Act or by such rules, the practice and procedure in a winding up under *The Winding-up Act of Canada* shall apply. 2 Geo. V. c. 31, s. 199. Rules of procedure. R.S.C. 1906, c. 144.

202.—(1) Where the affairs of the corporation have been fully wound up, the liquidator shall make up an account showing the manner in which the winding up has been conducted, and the property of the corporation disposed of, and thereupon shall call a general meeting of the shareholders or members of the corporation for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator, and the meeting shall be called in the manner provided by the by-laws for calling general meetings. Account of winding up to be made by liquidator to a general meeting.

(2) The liquidator shall make a return to the Provincial Secretary of such meeting having been held, and of the date at which the same was held, and the return shall be filed in the office of the Provincial Secretary; and on the expiration of three months from the date of the filing the corporation shall *ipso facto* be dissolved. 2 Geo. V. c. 31, s. 200. Return of holding of meeting to be sent to Provincial Secretary. Dissolution.

203.—(1) Notwithstanding the provisions of the next preceding section the Court at any time after the affairs of the corporation have been fully wound up may make an order dissolving the corporation, and the corporation shall be dissolved at and from the date of such order. Order for dissolution.

(2) The order shall be forthwith reported by the liquidator to the Provincial Secretary. Reports thereon.

(3) If the liquidator makes default in transmitting the return, or in reporting the order, if any, declaring the corporation dissolved, he shall incur a penalty not exceeding \$20 for every day during which he is in default. 2 Geo. V. c. 31, s. 201. Penalty on default in reporting by liquidator or in making return.

204. All dividends deposited in a bank and remaining unclaimed at the time of the dissolution of the corporation shall be left for three years in the bank where they are deposited, or in another bank if so ordered by the Court or Judge, and, if then unclaimed, shall be paid over, with interest accrued thereon, to the Treasurer of Ontario, and if afterwards duly claimed shall be paid over by the Treasurer to the persons entitled thereto. 2 Geo. V. c. 31, s. 202. Disposition of unclaimed dividends.

Deposit by liquidator with sworn statement.

205.—(1) Every liquidator shall, within thirty days after the date of the dissolution of the corporation, deposit in the bank appointed or named as hereinbefore provided any other money then in his hands not required for any other purpose authorized by this Act, with a sworn statement giving an account of such money, and stating that the same is all he has in his hands; and in case of default he shall incur a penalty not exceeding \$10 for every day during which he is in default.

Penalty on omission.

Money to remain on deposit for three years.

(2) The money so deposited shall remain deposited as provided by action 204 for three years in the bank, and shall be then paid over, with interest, to the Treasurer of Ontario, and if afterwards duly claimed shall be paid over to the person entitled thereto.

Disposal of books, etc., after winding up.

(3) Where a corporation has been wound up under this Act and is about to be dissolved, the books, accounts and documents of the corporation and of the liquidators may be disposed of as the corporation by resolution directs in case of voluntary winding up or as the Court directs in case of winding up under order.

After five years responsibility as to custody of books, etc., to cease.

(4) After the lapse of five years from the date of such dissolution no responsibility shall rest on the corporation or the liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them are not forthcoming to any person claiming to be interested therein. 2 Geo. V. c. 31, s. 203.

Provision for discharge of liquidator and distribution by the Court.

R.S.C. 1906, c. 144, s. 47.

206.—(1) Whenever a corporation is being wound up under an order of the Court, and the realization and distribution of its assets has proceeded so far that in the opinion of the Court it becomes expedient that the liquidator should be discharged, and that the balance remaining in his hands of the money and assets of the corporation can be better realized and distributed by the Court, the Court may make an order discharging the liquidator and for payment, delivery and transfer into Court, or to such officer or person as the Court may direct, of such money and assets, and the same shall be realized and distributed by or under the direction of the Court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator.

Disposal of books and documents.

(2) In such case the Court may make an order directing how the books, accounts and documents of the corporation and of the liquidator may be disposed of, and may order that they be deposited in Court or otherwise dealt with as may be thought fit. 2 Geo. V. c. 31, s. 204.

PART XIV.

GENERAL PROVISIONS.

207.—(1) The Lieutenant-Governor in Council may by Supplementary Letters Patent, upon the application of a corporation or of a shareholder, a creditor or a holder of bonds, debentures, debenture stock, or other securities or obligations thereof, or of any person with whom the corporation may have dealings, relieve the corporation from any duty, obligation or other disability which may have been imposed, or may limit any right, power or other advantage which may have been conferred upon the corporation by the repeal of the general Act under which it was incorporated and by the enactment of *The Ontario Companies Act* (1907) or of *The Ontario Companies Act* (1912) or of this Act.

Varying powers or obligations of existing corporations affected by repeal of former enactments.

7 Edw. VII.
c. 34.
2 Geo. V. c. 31.

(2) Notice shall thereupon be given by the Provincial Secretary of such Supplementary Letters Patent in the *Ontario Gazette*, setting out the manner in which any such duty, obligation or other disability has been relieved or in which such right, power or other advantage has been limited.

Publication of the change.

208.—(1) This Act, except in so far as it is otherwise expressly declared, shall apply to:

Application of Act.

(a) Every company incorporated under any special or general Act of the Parliament of the late Province of Upper Canada;

(b) Every company incorporated under any special or general Act of the Parliament of the late Province of Canada which has its head office and carries on business in Ontario, and which was incorporated with objects or purposes to which the authority of this Legislature extends;

(c) Every corporation incorporated under any of the Acts repealed by *The Ontario Companies Act*, (1907), or under any Act for which any of such repealed Acts was substituted or to which any of such Acts was applicable;

7 Edw. VII.
c. 34.

(d) Every company incorporated under a special Act to which any of the provisions of *The Ontario Joint Stock Companies' General Clauses Act* or any Act for which that was substituted was applicable;

R. S. O. 1897.
c. 189.

(e) Every corporation incorporated under this Act or under *The Ontario Companies Act* (1907) or *The Ontario Companies Act* (1912). (See c. 17, s. 50.)

7 Edw. VII.
c. 34.
2 Geo. V. c. 31.

except a company incorporated for the construction and working of a railway, incline railway or street railway, the business of insurance except as provided by *The Ontario Insurance Act*, and the business of a corporation within the meaning of *The Loan and Trust Corporations Act*, except as provided by that Act.

Rev. Stat.
c. 183.

Rev. Stat.
c. 184.

Proviso.

(2) The Lieutenant-Governor in Council may relieve any company incorporated before the first day of July, 1907, from compliance with any of the provisions of this Act.

Recovery of penalties.

Rev. Stat. c. 90.

209. Where not otherwise provided the penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*. 2 Geo. V. c. 31, s. 207.

SCHEDULE.

FORM 1.

(Section 5 (2)).

PETITION.

To HIS HONOUR Etc.

Lieutenant-Governor of the Province of Ontario:

THE PETITION OF

.....

.....

Humbly sheweth as follows:

1. Your petitioners are desirous of obtaining Letters Patent, under the provisions of *The Ontario Companies Act*, constituting your petitioners and such others as may become shareholders in the Company thereby created, a body corporate and politic under the name of The.....Company (Limited), or such other name as shall appear to Your Honour to be proper.

2. Your petitioners have satisfied themselves that the corporate name under which incorporation is sought is not on any public ground objectionable, and that it is not that of any known company, incorporated or unincorporated, or of any partnership or individual, or any name under which any known business is being carried on, or so nearly resembling the same as to deceive.

3. Your petitioners have satisfied themselves that no public or private interest will be prejudicially affected by the incorporation of your petitioners.

4. Each of your petitioners is of the full age of twenty-one years.

5. The object for which incorporation is sought is to.....

6. The head office of the Company will be at.....

7. The amount of the capital stock of the company is to be..... dollars.

8. The stock is to be divided into.....shares ofdollars each.

9. The said are to be provisional directors of the company.

10. By subscribing therefor in a Memorandum of Agreement, duly executed in duplicate, with a view to the incorporation of the company, your petitioners have taken the amount of stock set opposite their respective names, as follows:—

Petitioners.	Amount of stock subscribed for.
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....

YOUR PETITIONERS therefore pray that Your Honour may be pleased to grant Letters Patent constituting your petitioners and the persons who have become subscribers to the Memorandum of Agreement and such other persons as may become shareholders in the company, a body corporate and politic for the due carrying out of the undertaking.

And your petitioners, as in duty bound, will ever pray, etc.

Dated at.....this.....day of....., 19 ..

Signatures of witnesses

Signatures of petitioners.

FORM 3.

(Section 6 (2)).

PETITION FOR INCORPORATION WITHOUT SHARE CAPITAL.

TO HIS HONOUR Etc.,
Lieutenant-Governor of the Province of Ontario:

THE PETITION OF

.....

.....

.....

.....*Humbly sheweth as follows:*

1. Your petitioners are desirous of obtaining Letters Patent, under the provisions of *The Ontario Companies Act*, constituting your petitioners and such others as may become members of the corporation thereby created, a body corporate and politic without share capital, under the name of.....or such other name as shall appear to Your Honour to be proper.

2. Your petitioners have satisfied themselves that the corporate name under which incorporation is sought is not on any public ground objectionable, and that it is not that of any known company, incorporated or unincorporated, or of any partnership or individual, or any name under which any known business is being carried on, or so nearly resembling the same as to deceive.

3. Your petitioners have satisfied themselves that no public or private interest will be prejudicially affected by the incorporation of your petitioners.

4. Each of your petitioners is of the full age of twenty-one years.

5. The object for which incorporation is sought is to.....

6. The said

are to be the provisional directors of the corporation.

7. Your petitioners have signed a memorandum of agreement in duplicate, setting out the purposes and objects of incorporation and provisions for administering the affairs of the corporation, and have undertaken that the said corporation shall be carried on without the purposes of gain for its members, and that any profits or other accretions to the corporation shall be used in promoting its objects.

YOUR PETITIONERS therefore pray that Your Honour may be pleased to grant Letters Patent constituting your petitioners and such others as have become subscribers to the Memorandum of Agreement and such persons as may thereafter become members of the corporation, a body corporate and politic for the due carrying out of the undertaking.

And your petitioners, as in duty bound, will ever pray, etc.

Dated at.....this.....day of....., 19.....

Signatures of witnesses.	Signatures of petitioners.
	
	
	
	

2 Geo. V. c. 31, Form 3.

FORM 4.

Section 6 (3).

Memorandum of Agreement of the
made, and entered into this.....day of....., 19 ..

1. We the undersigned hereby severally covenant and agree each with the others to become incorporated under the provisions of *The Ontario Companies' Act* as a corporation without share capital for the purposes and objects following: (*Setting out the objects of the corporation.*)

2. The subscribers shall be the first members, and it shall rest with the directors to determine the terms and conditions on which subsequent members shall from time to time be admitted.

3. The following shall be the first directors of the corporation:—

4. The first directors shall hold office until the first general meeting, and unless otherwise provided by the members in general meeting the subsequent directors shall hold office for one year or until their successors are appointed.

5. Any member may transfer his interest in the corporation by instrument in writing, signed both by the transferor and transferee and duly registered with the corporation.

6. The first general meeting shall be held at such time, not being more than two months after incorporation, and at such place as the directors may determine.

7. Subsequent general meetings shall be held at such time and place as may be prescribed by the corporation in general meeting; and, if no other time or place is prescribed, a general meeting shall be held on the fourth Wednesday in January in every year, at such place as may be determined by the directors.

8. The directors may, whenever they think fit, and they shall upon a requisition made in writing by any five or more members, convene a general meeting.

9. The requisition shall express the object of the meeting proposed to be called, and shall be left at the office of the corporation.

10. Upon the receipt of such requisition the directors shall forthwith convene a general meeting, and, if they do not convene the

same within twenty-one days of the receipt of the requisition, the requisitionists or any other five members may themselves convene a meeting.

11. At least ten days' notice of any general meeting, specifying the place, the day, and the hour of meeting, and in case of special business the general nature of such business shall be given to the members in the manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the corporation in general meeting, but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

12. If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if convened upon the requisition of the members shall be dissolved. In any other case, it shall stand adjourned to the same day in the following week, at the same hour and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

13.—(1) The chairman (if any) of the directors shall preside as chairman at every general meeting of the corporation.

(2) If there is no such chairman, or if at any meeting he is not present, the members present shall choose one of their number to be chairman of the meeting.

14. The chairman may, with the consent of the meeting, adjourn it from time to time, and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

15. At any general meeting, unless a poll is demanded, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the minutes of proceedings of the corporation shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

16. If a poll is demanded, the same shall be taken in such manner as the chairman directs, and the result shall be deemed to be the resolution of the corporation in general meeting.

17. With the consent in writing of all the members, a general meeting may be convened on shorter notice than ten days and in any manner which such members think fit.

18. The presence in person or by proxy of either at least thirty members or of one-fourth of the members shall be necessary to constitute a quorum at general meetings.

19. Until otherwise determined by special resolution, every member shall have one vote.

20. Votes may be given either personally or by proxy, and the instrument appointing a proxy shall be in writing under the hand of the appointer, or if such appointer is a corporation under its common seal, and shall be attested by at least one witness, and no person shall be appointed a proxy who is not a member of the corporation.

21. A resolution signed by all the directors shall be as valid and effectual as if it had been passed at a general meeting of the directors duly called and constituted.

22. The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting shall be determined by the corporation in general meeting.

23. The affairs of the corporation shall be managed by the directors, who may pay all expenses of the incorporation and may exercise all such powers of the corporation as are not by *The Ontario Companies Act* or by this memorandum required to be exercised by the corporation in general meeting, subject, nevertheless, to any regulations of this memorandum, to the provisions of that Act and to such regulations not inconsistent with such regulations or provisions as may be prescribed by the corporation in general meeting; but no regulation made by the corporation in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made. The continuing directors may act notwithstanding any vacancy in their body.

24.—(1) The office of director shall be vacated:—

- (a) If he holds any other office or place of profit under the corporation;
- (b) If he is concerned in or participates in the profits of any contract with the corporation.

(2) No director shall vacate his office by reason of his being a shareholder or member of any corporation which has entered into any contract with or done any work for the corporation of which he is a director, but he shall not vote in respect of such contract or work, and if he votes his vote shall not be counted.

25. A retiring director shall be eligible for re-election.

26. If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled, the meeting shall stand adjourned till the same day in the next week, at the same hour and place; and if at such adjourned meeting the places of the vacating directors are not filled, the vacating directors, or such of them as have not had their places filled shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled.

27. The corporation may, from time to time, in general meeting increase or reduce the number of directors, and may also determine in what rotation any such increased or reduced number is to go out of office.

28. Any casual vacancy occurring in the board of directors may be filled by the directors, but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

29. The corporation, in general meeting, by a resolution, of which notice has been given in the notice calling the meeting, may remove any director before the expiration of his period of office, and may, by resolution, appoint another person in his stead; the person so appointed shall hold office during such time as the director in whose place he was appointed would have held the same if he had not been removed.

30.—(1) The directors may meet for the despatch of business, adjourn, and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business.

(2) Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote.

(3) A director may at any time summon a meeting of the directors.

31. The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present, the directors present shall choose one of their number to be chairman of the meeting.

32. The directors, by resolution entered upon the minutes, may delegate any of their powers to committees consisting of such member or members of their body as they think fit, and a committee so formed shall, in the exercise of its powers so delegated, conform to any regulations that may be imposed on them by the directors.

33. A committee may elect a chairman, and if no such chairman is elected, or if he is not present, the members present shall choose one of their number to be chairman of the meeting.

34. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

35. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such director or person so acting, or that they, or any one of them, were disqualified, shall be as valid as if every such person had been duly appointed and was qualified to be a director; but it shall not be necessary to give notice of a meeting of the directors to a director who is not in Ontario.

In testimony whereof we have hereunto set our hands and affixed our seals.

2 Geo. V. c. 31, Form 4.

FORM 5.

(Section 102 (1).)

Statement in lieu of prospectus

filed by
Limited,

pursuant to section 102.

Presented for filing by
The Ontario Companies Act.

STATEMENT IN LIEU OF PROSPECTUS.

The nominal share capital of \$.....
the company.

Divided into	Shares of \$	each.
	" "	"
	" "	"
	" "	"

Names, descriptions and addresses of directors or proposed directors.

Minimum subscription (if any) on which the company may proceed to allotment.

Number and amount of shares and debentures agreed to be issued as fully or partly paid-up otherwise than in cash. The consideration for the intended issue of those shares and debentures,	1. shares of fully paid.
	2. shares upon which \$ per share credited as paid.
	3. debenture \$
	4. Consideration.

Names and addresses of vendors of property purchased or acquired, or proposed to be purchased or acquired by the company. Amount (in cash, shares or debentures) payable to each separate vendor.

Amount, if any, paid or payable (in cash or shares or debentures) for any such property, specifying amount, if any, paid or payable for goodwill.	Total purchase price, \$
	Cash " " \$
	Shares " " \$
	Debentures " " \$
	Goodwill " " \$

Amount, if any, paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company, or,	Amount paid
	" payable

Rate of commission Rate per cent.

Estimated amount of preliminary expenses.....

Amount paid or intended to be paid to any promoter.	Name of promoter.
Consideration for payment.	Amount \$
	Consideration

Dates of, and parties to, every material contract (other than contracts entered into in the ordinary course of business intended to be carried on by the company or entered into more than two years before the filing of this statement.)

Time and place at which the contracts or copies thereof may be inspected.

Names and addresses of the auditors of the company (if any).

Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.

Whether the articles contain any provisions precluding holders of shares or debentures receiving and inspecting balance sheets or reports of the auditors or other reports.	Nature of the provisions.
---	---------------------------

(Signatures of the persons above named as directors or proposed directors, or of their agents authorized in writing.)

.....

FORM 6.

Instrument of Proxy.

(Section 51 (4).)

I _____ of _____ Company, Limited.
a shareholder of _____ of _____ Company, Limited.
hereby appoint _____ of _____
(naming the proxy) as my proxy to vote for me and on my behalf
at the _____ meeting of the company, to be
held on the _____ day of _____, 19____ and at any
adjournment thereof.

Dated this _____ day of _____, 19____

Note.—

(1) Where the appointor is a corporation or an officer of it the necessary changes must be made in the form.

(2) Where the instrument is signed by a corporation its common seal must be affixed.

2 Geo. V. c. 31, Form 6.

CHAPTER 179.

An Act respecting the licensing of Extra Provincial Corporations.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Extra Provincial Corporations Act*. Short title.

2. In this Act, Interpretation.

- (a) "Extra Provincial Corporation" shall mean a corporation created otherwise than by or under the authority of an Act of this Legislature. "Extra Provincial corporation." 63 V. c. 24, s. 1.
- (b) "Minister" shall mean that member of the Executive Council charged for the time being with the administration of this Act. "Minister."
- (c) "Regulations" shall mean regulations made by the Lieutenant-Governor in Council. "Regulations." *New.*

3. Extra Provincial Corporations of the classes mentioned in this section shall not be required to take out a license under this Act. Corporations which do not require license

Class 1. Corporations created by or under the authority of an Act of the Legislature of the late Province of Upper Canada, or by Charter of the Government of that Province.

Class 2. Corporations created by or under the authority of an Act of the Legislature of the late Province of Canada, or by Charter of the Government of that Province, and carrying on business in Ontario on the 1st day of July, 1900.

Class 3. Corporations which had before the 1st day of July, 1900, received from the Government of Ontario a license to carry on business in Ontario, or had been authorized by Act of this Legislature to carry on business in Ontario while such license or Act is in force.

Class 4. Corporations now or hereafter licensed or registered under the provisions of *The Ontario Insurance Act*. Rev. Stat. cc. 183, 184.

ance Act or of The Loan and Trust Corporations Act. 63 V. c. 24, s. 2, part.

Rev. Stat. c. 27.

Rev. Stat.
c. 215.

Class 5. Corporations liable to payment of taxes imposed by *The Corporations Tax Act*, or Corporations licensed under the provisions of *The Liquor License Act* relating to Brewers and Distillers. 1 Edw. VII. c. 19, s. 1.

Class 6. Corporations not having gain for any of their objects. 63 V. c. 24, s. 2, *part*.

Corporations
which require
license.

4. Extra Provincial Corporations of the classes mentioned in this section are required to take out a license under this Act.

Class 7. Corporations other than those mentioned in section 3 created by or under the authority of an Act of the Legislature of the late Province of Canada, or by Charter of the Government of that Province authorized to carry on business in Upper Canada, but not carrying on business in Ontario on the 1st day of July, 1900.

Class 8. Corporations created by or under the authority of an Act of the Dominion of Canada, and authorized to carry on business in Ontario.

Class 9. Corporations not coming within any of the classes 1 to 8. 63 V. c. 24, s. 3, *part*.

Rights to
license when
within
classes 7
or 8.

5. A corporation coming within class 7 or 8 shall, upon complying with the provisions of this Act and the Regulations, receive a license to carry on its business and exercise its powers in Ontario. 63 V. c. 24, s. 4.

Rights to
license when
within
class 9.

6. A corporation coming within class 9 may, upon complying with the provisions of this Act and the Regulations, receive a license to carry on the whole or such parts of its business and exercise the whole or such parts of its powers in Ontario as may be embraced in the license; subject however to such limitations and conditions as may be specified therein. 63 V. c. 24, s. 5.

Carrying on
business with-
out license
prohibited.

7.—(1) No Extra Provincial Corporation coming within class 7 or 8 or 9 shall carry on within Ontario any of its business unless and until a license under this Act so to do has been granted to it, and unless such license is in force; and no company, firm, broker, agent or other person shall, as the representative or agent of or acting in any other capacity for any such Extra Provincial Corporation, carry on any of its business in Ontario unless and until such corporation has received such license and unless such license is in force.

Exception.

(2) Taking orders for or buying or selling goods, wares and merchandise by travellers or by correspondence, if

the corporation has no resident agent or representative or no office or place of business in Ontario, shall not be deemed a carrying on of business within the meaning of this Act. 63 V. c. 24, s. 6, *part*; 1 Edw. VII. c. 19, s. 2.

(3) Every corporation which and every person who con-^{Penalty.}travenes the provisions of this section shall incur a penalty of \$20 for every day upon which the contravention occurs. 63 V. c. 24, s. 15.

8. The onus of proving that a corporation has no resident^{Onus of} agent or representative and no office or place of business in^{proof.} Ontario, shall, in any prosecution for an offence against the last mentioned section, rest upon the accused. 63 V. c. 24, s. 6, *part amended*.

9.—(1) An Extra Provincial Corporation coming within^{Application} class 7 or 8 or 9 may apply to the Lieutenant-Governor in^{for license.} Council for a license to carry on its business or part thereof, and to exercise its powers or part thereof, in Ontario. 63 V. c. 24, s. 7.

(2) No limitations or conditions shall be included in any^{Conditions of} such license which would limit the rights of a corporation^{license.} coming within class 7 or class 8, to carry on in Ontario all such parts of its business and to exercise in Ontario all such parts of its powers as by its Act or Charter of incorporation it may be authorized to carry on and exercise therein. 1 Edw. VII. c. 19, s. 3.

10.—(1) The Lieutenant-Governor in Council may make^{Regulations} Regulations which shall be published in the *Ontario Gazette*^{by Order-in-Council.} respecting:—

- (a) the evidence required, upon the application for a^{Evidence} license, as to the creation of the corporation, its^{upon} powers and objects and its existence as a valid^{application.} and subsisting corporation;
- (b) the appointment and continuance by the corpora-^{Service of} tion of a person or company as its representative^{process.} in Ontario on whom service of process, notices or other proceedings may be made, and the powers to be conferred on such representative;
- (c) the forms of licenses, powers of attorney, applica-^{Forms.} tions, notices, statements, returns and other documents relating to applications and other proceedings under this Act.

(2) The Lieutenant-Governor in Council may make orders^{Special} as to particular cases where the general Regulations may^{Orders in} not be applicable or where they would cause unnecessary in-^{Council.}convenience or delay. 63 V. c. 24, s. 8.

Proof to be
furnished on
application.

11. Upon the application for a license the applicant shall establish to the satisfaction of the Minister, or such other officer as may be charged by him to report thereon, that the provisions of this Act and the Regulations have been complied with; and the Minister, Deputy Minister or such other officer may, for that or for any other purpose under this Act, take evidence under oath. 63 V. c. 24, s. 9. *Amended.*

Dealing with
real estate.

12. A corporation receiving a license may, subject to the limitations and conditions of the license, and subject to the provisions of its own charter, Act of Incorporation or other instrument creating it, acquire, hold, mortgage, alienate and otherwise dispose of real estate in Ontario and any interest therein to the same extent and for the same purposes as if such Corporation had been incorporated under *The Ontario Companies Act* with power to carry on the business and exercise the powers embraced in the license. 63 V. c. 24, s. 10.

Rev. Stat.
c. 178.

Notice of
granting
license.

13. Notice of the granting of a license under this Act shall be given in the *Ontario Gazette*, and a copy of such *Gazette* containing such notice shall be *prima facie* evidence, in all proceedings by and against the corporation and otherwise under this Act or otherwise, of the granting of the license and of the terms thereof mentioned in the notice; and a copy of the license certified by the Minister or his deputy shall be sufficient evidence of the license before all courts and tribunals. 63 V. c. 24, s. 11.

Returns to be
made by
licensees.

14. A corporation receiving a license and a corporation coming within class 3 shall, on or before the eighth day of February in every year during the continuance of the license, make and transmit to the Minister a statement under oath and according to a form approved of by the Lieutenant-Governor in Council, containing information similar to that required under section 135 of *The Ontario Companies Act*, or so much thereof or such additional information as may be required by such form, and the Minister may at any time require the corporation to supply further and other information. 63 V. c. 24, s. 12.

Rev. Stat.
c. 178.

Suspension,
cancellation
or restoration
of license
after default
of licensee.

15.—(1) If a corporation receiving a license makes default in observing or complying with the limitations and conditions of such license or the provisions of section 14, or the Regulations respecting the appointment and continuance of a representative in Ontario, the Lieutenant-Governor in Council may suspend or revoke such license in whole or in part, and may remove such suspension or cancel such revocation and restore such license.

Publication.

(2) Notice of such suspension, revocation, removal or restoration shall be given in the *Ontario Gazette*. 63 V. c. 24, s. 13.

16.—(1) If any Extra Provincial Corporation coming within class 7 or 8 or 9, contrary to the provisions of section 7, carries on in Ontario any part of its business, such corporation shall incur a penalty of \$50 for every day upon which it so carries on business; and so long as it remains unlicensed it shall not be capable of maintaining any action or other proceeding in any Court in Ontario in respect of any contract made in whole or in part within Ontario in the course of or in connection with business carried on contrary to the provisions of said section 7. Penalty for carrying on business without a license.

(2) Upon the granting or restoration of the license, or the removal of any suspension thereof, such action or other proceeding may be prosecuted as if such license had been granted or restored or such suspension had been removed before the institution thereof. 63 V. c. 24, s. 14. Saving.

17. The Lieutenant-Governor in Council may on or after granting a license remit in whole or in part any penalty incurred by the corporation receiving the license or by any representative or agent thereof, and may also remit in whole or in part the costs of any action or proceeding commenced for the recovery of any such penalty, and thereupon the whole or such part of the costs, as the case may be, shall not be recoverable. 63 V. c. 24, s. 16. Power to remit penalties or costs.

18. The penalties mentioned in this Act shall be recoverable only by an action at the suit of or brought with the written consent of the Attorney-General of Ontario, which shall be commenced within six months after the liability for such penalty was incurred, and not afterwards. 63 V. c. 24, s. 17. Penalties, how recoverable.

19. There shall be paid to His Majesty for the public uses of Ontario for every license under this Act, such fees as may be prescribed by the Lieutenant-Governor in Council. 3 Edw. VII. c. 7, s. 3. Fees on licenses and returns.

20. There shall be paid to His Majesty for the public uses of Ontario upon transmitting to the Minister the statement required by section 14 the fee of \$5 if the capital stock of the company does not exceed the sum of \$100,000 and a fee of \$10 if the capital stock of the company exceeds that sum, and until such fee has been paid such statement shall be deemed not to have been made and transmitted. 63 V. c. 24, s. 18, *part*. Fees on filing statement.

21.—(1) An extra provincial corporation which is not required by this Act to take out a license may apply for and receive a license authorizing it, subject to the limitations and conditions of the license, and subject to the provisions of its own charter, Act of incorporation or other creating instrument, to acquire, hold, mortgage, alienate and otherwise dispose of real estate in Ontario and any interest therein to Granting license as to real estate to other corporations.

Rev. Stat.
c. 178.

the same extent and for the same purposes as if such corporation had been incorporated under *The Ontario Companies Act* with power to carry on the business or exercise the powers embraced in the license.

Dispensing
with s. 14.

(2) The Lieutenant-Governor in Council may by such license dispense with compliance by such corporation in whole or in part with the provisions of section 14. 63 V. c. 24, s. 19.

Annual
Report.

22. A statement showing the licenses issued under this Act during the preceding calendar year and the authorized capital stock of the company licensed and the fee paid for each license shall be laid before the Assembly at each session thereof. 63 V. c. 24, s. 20.

[*Note.—Schedules A and B to 63 V. c. 24, were repealed by 3 Edw. VII. c. 7, s. 53.*]

CHAPTER 180.

An Act respecting Telegraph Companies.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Telegraph Act*. Short title.
New.
2. Every telegraph association or company, subject to the legislative authority of Ontario, and incorporated under chapter 67 of the Consolidated Statutes of Canada, or under any general Act passed subsequently thereto, and prior to *The Ontario Companies Act*, passed in the 7th year of His late Majesty's reign chaptered 34, may construct the lines of telegraph designated in its instrument of incorporation upon any lands purchased by the company, or the right to carry its line over which has been conceded to it by the person having a right to make such concession, and along and upon any of the public roads and highways, or across any of the waters within Ontario by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the wires or cables of such lines, provided the same are not so constructed as to incommode the public use of such roads or highways, or to impede the free access to any house or other building erected in the vicinity of the same, or injuriously to interrupt the navigation of such waters. R.S.O. 1897, c. 192, s. 1. Powers for the construction of the line.
3. Nothing herein shall confer on any such association or company the right of building a bridge over any navigable water. R.S.O. 1897, c. 192, s. 2. No right to build bridge over navigable water.
4. The person or company owning or operating any telegraph line shall, except in the cases provided for in the next following section, transmit all despatches in the order in which they are received, under a penalty of not less than \$20 nor more than \$100, to be recovered by any person whose despatch has been postponed out of its order. R.S.O. 1897, c. 192, s. 3. Duties of company in transmitting despatches.
5. Any message in relation to the administration of justice, the arrest of criminals, the discovery or prevention of crime, and Government messages or despatches, shall always be transmitted in preference to any other message or despatch, if required by persons connected with the administration of What messages entitled to preference

justice, or any person thereunto authorized by the Provincial Secretary. R.S.O. 1897, c. 192, s. 4.

Temporary
Assumption
of the line by
Government.

6. His Majesty may, at any time, assume, and for any length of time retain, possession of any such telegraph line and of all things necessary to the efficient working thereof, and may for the same time require the exclusive service of the operators and other persons employed in working such line, and the person or company owning or operating such line shall give up possession thereof, and the operators and other persons so employed shall, during the time of such possession of His Majesty, diligently and faithfully obey such orders, and receive and transmit such despatches as they may be required to receive and transmit by any duly authorized officer of the Government of Ontario, under a penalty not exceeding \$100 for any refusal or neglect to comply with the requirements of this section, to be recovered by the Crown for the public uses of Ontario. R.S.O. 1897, c. 192, s. 5.

Assumption
of the property
of the line by
Government.

7.—(1) His Majesty, at any time after two months' notice to the company or owner of the telegraph line, may assume the possession and property thereof, and thereupon the line and all the property, real or personal, essential to the working thereof, and all the rights and privileges of such company or owner as regards the same shall be vested in the Crown. R.S.O. 1897, c. 192, s. 6.

Mode of settling the compensation in case of disagreement.

Rev. Stat. c 35.

(2) If a difference arises between the company or owner and the Crown as to the compensation to be paid therefor, or for the temporary exclusive use thereof under section 6, such difference shall be determined in the manner provided by *The Ontario Public Works Act* in the case of land taken without the consent of the owner. R.S.O. 1897, c. 192, s. 7.

Power of municipal corporations and joint Stock Companies to hold shares.

8.—(1) Any municipal corporation or a joint stock company incorporated under any Act of the late Province of Canada or of Ontario, may subscribe for and hold shares in any telegraph company mentioned in section 2, and may pay the amount of such subscription out of any funds not specially appropriated to any other purpose.

Power of municipality to raise funds.

And to vote.

(2) Such municipal corporation may levy money by rate for paying any such subscription, and, subject to the instrument of incorporation and the by-laws of the telegraph company, may vote upon the shares held by it in such manner and through the intervention of such person or officer as may be determined by the council of the municipal corporation or by the joint stock company. R.S.O. 1897, c. 192, s. 8.

Telephone companies.

9. This Act shall not apply to telephone companies. *New.*

CHAPTER 181.

An Act respecting Joint Stock Companies for the Construction of Works to Facilitate the Transmission of Timber down Rivers and Streams.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Timber Slide Companies Act*. 3-4 Geo. V. c. 34, s. 1. Short title.

2. In this Act,—

Interpreta-
tion.

“Minister” shall mean the Minister of Lands, Forests and Mines. 3-4 Geo. V. c. 34, s. 2. “Minister.”

3. The Lieutenant-Governor in Council may confer the powers authorized by this Act upon any company heretofore or hereafter incorporated, under *The Ontario Companies Act* or any Act for which the same was substituted, for the purpose of acquiring or constructing and maintaining any dam, slide, pier, boom or other work necessary to facilitate the transmission of timber down any river or stream in Ontario, or for the purpose of blasting rocks, or dredging or removing shoals or other impediments, or of otherwise improving the navigation of the river or stream for such purpose, and every such company shall thereupon become subject to all the provisions of this Act. 3-4 Geo. V. c. 34, s. 3. Powers to be granted to companies.
Rev. Stat. c. 178.

4. The letters patent incorporating a company for any of the purposes mentioned in section 3 shall not be issued until the proof has been furnished that When letters patent may be issued.

(a) the proposed capital is sufficient to carry out the objects for which the company is to be incorporated, that such capital has been subscribed or underwritten and that the applicants are likely to command public trust and confidence in the undertaking; and

(b) notice of the application for the letters patent has been served upon all timber licensees and other persons known to be interested in the works proposed to be constructed. 3-4 Geo. V. c. 34, s. 4.

Material
to be
transmitted
by appli-
cants.

5.—(1) The applicants for the letters patent shall, with their application, transmit to the Provincial Secretary the report provided for by section 6, and copies of the by-laws proposed to be passed for regulating the transmission of timber over or through the works of the company and the navigation therewith connected; and when the Provincial Secretary, or other officer charged with the duty of reporting on the application, certifies that the other requirements preliminary to the issue of the letters patent have been complied with, such report shall be transmitted to the Minister.

Approval of
Minister
necessary.

(2) The letters patent shall not be issued until the Minister has certified to the Provincial Secretary that, in his opinion, it is proper that they should be issued. 3-4 Geo. V. c. 34, s. 5.

Contents of
report.

6. The report shall contain

- (a) a detailed description of the works proposed to be undertaken and an estimate of their cost;
- (b) an estimate from the best available sources of the quantity of different kinds of timber expected to come down the river or stream yearly after the works have been completed; and
- (c) a schedule of the tolls proposed to be imposed. 3-4 Geo. V. c. 34, s. 6.

Publication
of schedule
of tolls.

7. The schedule of tolls shall be published once a week for four successive weeks in a newspaper published in the county or district in which, or nearest to which, the works are to be situate. 3-4 Geo. V. c. 34, s. 7.

Report of
Minister
approving.

8. Thirty days after the first publication the Minister shall consider the report, and, if he approves of the issue of the letters patent, he shall so report to the Lieutenant-Governor in Council who may thereupon direct the issue of the letters patent. 3-4 Geo. V. c. 34, s. 8.

Rate of
dividend.

9. The Lieutenant-Governor in Council may, in the letters patent, state a rate of dividend, not exceeding 12 per centum per annum, which the company shall be at liberty to pay to the shareholders, if the revenues of the company otherwise justify such payment, and in such case the Minister shall, in considering the tolls to be allowed, have regard to such rate. 3-4 Geo. V. c. 34, s. 9.

Limitation
of com-
pany's ex-
istence.

10. The existence of the company may be limited to a term of years, not exceeding twenty-one, to be fixed by the letters patent. 3-4 Geo. V. c. 34, s. 10.

11. The company may make by-laws for regulating the transmission of timber over or through the works of the company and the navigation therewith connected. 3-4 Geo. V. c. 34, s. 11.

By-laws to regulate transmission of timber.

12. The proposed by-laws, with such variations as are made therein by the Minister before the issue of the letters patent, shall, upon the issue of the letters patent, become the by-laws of the company without further action or adoption by the company, and copies of all new by-laws and of all amending by-laws, with reference to the subjects dealt with by the proposed by-law, shall be annexed to the annual reports required by section 20. 3-4 Geo. V. c. 34, s. 12.

Copies of proposed by-laws to be annexed to reports of company.

13. No new by-law, or amending by-law, shall have any force until one month after it has been included in the report; but if at the end of one month the by-law has not been disallowed, as it may be by the Minister, it shall have full force and be binding upon the company using the works. 3-4 Geo. V. c. 34, s. 13.

When by-law to come in force.

14. No such by-law shall impose any penalty for a contravention thereof. 3-4 Geo. V. c. 34, s. 14.

Restrictions as to by-laws.

15. No company shall construct its works over or upon or otherwise interfere with or injure any private property, or the property of His Majesty, without first having obtained the consent of the owner or occupier thereof, or of his Majesty, except as is in this Act provided. 3-4 Geo. V. c. 34, s. 15.

Interference with property of others.

16. The Minister shall not report in favour of the issue of the letters patent incorporating a company to improve any river or stream for the improvement of which any other company has been formed, either under this Act or any other Act of this Legislature, without the consent of such other company. 3-4 Geo. V. c. 34, s. 16.

When consent to formation of company required.

17. Upon the expiration of the period limited for the existence of the company all the dams, slides, piers, booms and other works constructed by the company for the transmission of timber down any river or stream, or for the improvement of the navigation of such river or stream, shall become the property of His Majesty for the public uses of Ontario, and the company, or the shareholders thereof, shall have no right to compensation therefor. 3-4 Geo. V. c. 34, s. 17.

Property vesting in the Crown on expiration of company's existence.

18. Notwithstanding the expiration of the period limited for the existence of the company it shall continue to exist for the purpose of taking such proceedings as may be requisite for winding up and settling its affairs, and for getting in its assets, and distributing the same amongst its shareholders; and the company may, for those purposes, sue and

Company's existence to continue for the purpose of winding up.

be sued as if the period of its corporate existence had not expired; but after such period the words "in liquidation" shall be added to the name of the company and shall be a part of such name. 3-4 Geo. V. c. 34, s. 18.

Distribution
of capital
and profits.

19. No distribution of capital shall be made under the next preceding section until three years after the expiration of the period limited for the existence of the company, but this shall not prevent the distribution amongst the shareholders of the annual profits received from investments, and after such three years section 95 of *The Ontario Companies Act* shall not apply. 3-4 Geo. V. c. 34, s. 19.

Rev. Stat.
c. 178.

Yearly report
to the
Minister.

20.—(1) The directors of the company incorporated shall annually, in the month of January, make to the Minister a report, verified by the oath of the treasurer of the company, specifying—

Contents.

Cost of
work.

Money
expended.

Capital
stock.

Tolls ex-
pended on
work.

Tolls re-
ceived.

Dividends
paid.

Expendi-
ture for
repairs.

Indebted-
ness of
company.

Detailed
description
of exten-
sions or im-
provements.

Detailed
description
of repairs
or re-
movals.

When esti-
mated cost
of renewals
and repairs
to be ad-
vertised.

(a) the cost of the works;

(b) the amount of all money expended;

(c) the amount of the capital stock, and the amount paid in;

(d) the whole amount of tolls expended on the works;

(e) the amount received during the year from tolls and all other sources, stating each separately, and distinguishing the tolls on different kinds of timber;

(f) the amount of dividends paid;

(g) the amount expended for repairs;

(h) the amount of the debts due by the company, stating the objects for which they were respectively incurred;

(i) a detailed description of any extension or improvement of the works or of any new works proposed to be undertaken in the following year, together with an estimate of the cost thereof; and

(j) a detailed description of any repairs or renewals that may require to be made after the 31st day of December in the year to which the report relates and before the time of fixing the tolls, together with an estimate of the cost thereof.

(2) If the repairs and renewals mentioned in clause (j) of subsection 1 are actually made before the settling of the tolls the cost thereof may be taken into consideration in fixing such tolls, and such estimated cost shall be advertised along with the schedule of tolls as provided in section 7. 3-4 Geo. V. c. 34, s. 20.

21. The company shall keep proper books of account containing full and true statements of the Books of account.

- (a) financial transactions of the company;
- (b) assets of the company;
- (c) sums received and expended by the company and the matters in respect of which the receipt or expenditure took place; and
- (d) credits and liabilities of the company;

and such books shall be at all times open to the inspection and examination of any shareholder. 3-4 Geo. V. c. 34, s. 21.

22. The Minister may appoint a person to inspect and examine such books, and every person so appointed may take copies or extracts from them, and may require from the keeper of such books, and also from the president and each of the directors of the company and all the other officers and servants thereof, all such information as to such books and the affairs of the company generally as the person so appointed deems necessary for the full and satisfactory investigation into and report upon the state of the affairs of the company so as to enable him to ascertain whether the tolls are greater than are permitted by this Act to be imposed. 3-4 Geo. V. c. 34, s. 22. Inspection of books.

23. The company shall have the right to expropriate any land, right or easement requisite for the purpose of its undertaking, and except as herein otherwise expressly provided the provisions of *The Ontario Railway Act* as to making compensation to all persons interested and as to the mode of ascertaining the amount of compensation and the payment of it shall apply *mutatis mutandis*. 3-4 Geo. V. c. 34, s. 23. Rights of expropriation. Rev. Stat. c. 185. Ascertaining compensation.

24. In ascertaining the amount of the compensation due regard shall be had to the benefits which will accrue to the person claiming compensation from the construction of the intended works. 3-4 Geo. V. c. 34, s. 24. What to be considered.

25.—(1) If there is already established by any person, other than a company formed under this Act or any other Act of this Legislature, any slide, pier, boom, or other work intended to facilitate the passage of timber down any water for the improvement of which a company is formed under this Act, such company may take possession of the works; and the owners thereof, or, if the works have been constructed on the property of His Majesty, the persons at whose cost they have been constructed, shall be entitled to compensation for the value of the works, either in money or in stock of the company, at the option of the owner or the person at whose cost the works were constructed, and may become shareholders in the company for an amount equal If timber slides, etc., erected by others be assumed by the company, how compensation to be made.

Rev. Stat.
c. 185.

to the value of the works, such value to be ascertained by arbitration as provided by *The Ontario Railway Act*; and all the provisions of that Act shall apply in the same manner and to the same extent as to lands expropriated by the company.

Formalities
to be ob-
served by
company
acquiring
existing
works.

(2) Where the company purchases or takes possession of the works, and does not make or construct any other works than those so acquired, the company shall furnish the Minister with the report mentioned in section 6. 3-4 Geo. V. c. 34, s. 25.

Mill sites,
etc., not to
be taken
without the
consent of
the owner.

26.—(1) Nothing herein shall authorize a company formed under this Act to take possession of or injure any mill site upon which there are existing mills or machinery, or hydraulic works other than those intended to facilitate the passage of timber; and no company formed under this Act shall commence any work which interferes with or endangers such occupied mill site without the consent in writing of the owner, or unless it is determined by arbitration that the proposed works will not injure such mill site.

Registering
consent
or award.

(2) The consent or award shall be registered in the same manner as the instrument of incorporation of the company. 3-4 Geo. V. c. 34, s. 26.

When no
compensa-
tion in respect
of land pur-
chased after
incorpora-
tion.

27. Where land which was sold after the construction of the works of the company is overflowed or injured by such works, and the purchaser obtained a reduction in the price of the land, or was otherwise indemnified for the overflow or injury, or where the land was located as a free grant after the construction of the works, the owner shall not be entitled to compensation from the company for the overflowing or injury by such works. 3-4 Geo. V. c. 34, s. 27.

Restrictions
upon the
company.

28. Nothing herein shall authorize the company to obstruct any waters already navigable or to collect tolls other than those upon timber. 3-4 Geo. V. c. 34, s. 28.

Rights of
parties as
to water
powers
created by
the company.

29. If, by reason of a dam erected by the company, any water power is created the company shall not have any title or claim to the use of such water power; but, if the owner or occupier of the adjoining land claims compensation for damages arising from such dam, the arbitrators may take into account the increased value of his land by reason of the water power so created. 3-4 Geo. V. c. 34, s. 29.

Principle on
which tolls
to be cal-
culated.

30.—(1) The tolls for the first year shall be calculated upon the estimates hereinbefore required to be made of the cost of the works, and the quantity of different kinds of timber expected to pass down the stream, and the tolls in all future years shall be calculated upon the cost of the works and the quantity of different kinds of timber expected to pass

down the stream, and the receipts and expenditure, according to the accounts of the then next preceding year, as rendered in accordance with the provisions of section 20 and the following sections.

(2) The tolls shall be so calculated that, after defraying the necessary cost of maintaining and superintending the works and running, driving, booming, towing, sorting, and rafting logs and other timber, and providing an equal annual sinking fund, which, invested at six per centum, will be sufficient to pay back to the shareholders the amount of their paid-up stock at the end of the time limited for the existence of the company, and collecting the tolls, the balance of the receipts shall as nearly as possible be equal to and in no case exceed \$10 for every \$100 expended and invested in the works.

(3) If in any year the receipts from tolls are such that, after defraying all the current expenses, there remains a clear profit of more than \$10 upon every \$100 of the capital expended there shall, nevertheless, be divided amongst the shareholders no greater dividend than after the rate of \$10 for every \$100, and the remainder shall be carried over to the receipts of the following year, unless a higher rate is authorized by the letters patent or by the Lieutenant-Governor in Council; and unless the Minister is of opinion that injustice will be done to any of the persons interested, such surplus may, in case of a deficiency, be applied in whole or in part upon any deficiency in the year preceding that in which the surplus accrued. 3-4 Geo. V. c. 34, s. 30.

31. The Minister may refer the taking of the accounts, or the consideration of any matter or thing that he may deem necessary in order to the proper adjustment of the tolls, to an accountant or expert or any other person of skill, and such accountant, expert or other person shall have all the powers conferred upon a person appointed to examine the books under section 22. 3-4 Geo. V. c. 34, s. 31.

32. The tolls to be collected upon different kinds of timber shall bear to each other the following proportions:

Red and white pine, tamarac, spruce and hemlock, square and waney board, per thousand cubic feet	06
Oak, elm, or other hardwood, square or flatted, or waney board	09
Saw-logs, 17 feet and under, per thousand feet, board measure	01
Red and white pine, tamarac, spruce, and hemlock, round or flatted over 17 feet and under 30 feet long	01¼
Red and white pine, tamarac, spruce, and hemlock, round or flatted, 30 feet and upwards in length	01½

Sawed lumber	03
Staves, per 1,000 feet.....	15
Cords of wood, shingle bolts, and other lumber, per cord of 128 feet	1-3
Spars, per piece	03
Masts, per piece	05
Railway ties other than cedar, in 8 or 16 feet lengths, per length of 8 feet	1-18
Cedar, round or flatted, 8 feet long or under, per piece,	1-24
Cedar, round or flatted, over 8 feet and under 17 feet long	1-12
Cedar, round or flatted, over 17 feet and under 23 feet long	00 $\frac{1}{8}$
Cedar, round or flatted, over 25 feet and under 35 feet long	1-5
Cedar, round or flatted, 35 feet and upwards	1-3

3-4 Geo. V. c. 34, s. 32.

Reporting
schedule of
proposed
tolls.

33.—(1) The annual account required to be rendered by a company shall contain a schedule of the tolls so calculated which it is proposed to collect in the following year, and the schedule shall be published in the manner provided by section 7 prior to the 1st day of March, and if it has not been notified to the company, on or before the 15th day of April following, that the schedule has been disallowed by the Minister the tolls so published shall be the lawful tolls for that year.

When
Minister
may vary
same.

(2) If it appears to the Minister that the proposed tolls have not been calculated in accordance with the provisions of this Act the Minister may alter or vary the schedule so as to make the tolls accord with such provisions.

Publication
of amended
schedule.

(3) The amended schedule of tolls shall be notified to the company, and shall be published immediately thereafter for two weeks in a newspaper published in the county or district in which or nearest to which the works are situate, and shall be the lawful tolls for that year.

Where no
change.

(4) Should no change be made by the Minister a notice of that fact shall be published for two weeks in such newspaper. 3-4 Geo. V. c. 34, s. 33.

Demanding
of owner
statement
of quantity
of timber
liable to toll.

34.—(1) The company may demand from the owner of any timber intended to be passed over or through any portion of its works, or from the person in charge of the same, a written statement of the quantity of every kind of timber and of its destination, and of the sections of the works over or through which it is intended to pass, and if no written statement is given when required, or if a false statement is given, the whole of the timber, or such part of it as has been omitted by a false statement, shall be liable to double toll.

Penalty for
refusal or
false
statement.

(2) If any owner or person in charge knowingly or wilfully returns a larger quantity than it is his intention or the intention of such owner or person in charge to pass over or through any of the sections the company shall be entitled, in addition to any other remedy it may have, to collect tolls on the difference between the quantity so falsely estimated and the quantity actually passing over or through the works. 3-4 Geo. V. c. 34, s. 34.

When false estimate is given as to quantity liable to toll, Extra tolls may be collected.

35. The company may demand and receive the lawful toll upon all timber which has come through or over any of its works; and the company and its servants shall have free access to all such timber for the purpose of measuring or counting it. 3-4 Geo. V. c. 34, s. 35.

On what timber toll taken. Right of company to examine.

36. If the just tolls are not paid on demand they shall be recoverable by action. 3-4 Geo. V. c. 34, s. 36.

May sue for tolls.

37. If timber has come through or over part only of the works of the company the owner of the timber shall be liable to pay tolls only for such sections of the whole works as he has made use of if, in the schedule of tolls, the works are divided into sections, and if not to pay such a portion of the whole tolls as the distance the timber has come through or over the works bears to the whole distance for which the works extend. 3-4 Geo. V. c. 34, s. 37.

Toll to be apportioned to the extent of the works used.

38.—(1) If the true owner of any timber which has passed through or over any of the works of the company cannot be ascertained, or if there are reasonable grounds to apprehend that the tolls thereon have not been paid by the owner or reputed owner or person in charge, any mayor, reeve or justice of the peace having jurisdiction in the locality through or adjoining which such navigation extends, or where the timber may be found, if within twenty miles of any such works, shall, upon the oath of any director or servant of the company that the just tolls have not been paid, issue a warrant for the seizure of such timber or so much of it as will be sufficient to satisfy the tolls.

Remedy by seizure of timber for non-payment of tolls.

Limit of distance.

(2) The warrant shall be directed to any constable or any person sworn as a special constable for that purpose, at the discretion of the magistrate, and shall authorize the person to whom it is directed, if the tolls are not paid within fourteen days from the date of the warrant, to sell the said timber, and out of the proceeds to pay to the company the just tolls, together with the costs of the warrant and sale, rendering the surplus on demand to the owner.

Execution of warrant.

(3) Where the works, through or over which any timber is passed, are in whole or in part constructed upon or along any river or stream tributary to any river or stream which flows into the Georgian Bay, Lake Huron, or Lake Superior, or

No limit in certain streams.

upon or along any of such last named rivers or streams, the right of seizure shall continue while the timber remains in any of such last named rivers or streams, whether or not the timber is within the twenty miles.

Idem.

(4) Where such works are constructed upon or along any river or stream in Ontario tributary to the Ottawa River the right of seizure shall continue while the timber remains in such tributary, river or stream, whether within the twenty miles or not.

Time for seizure.

(5) Subsections 3 and 4 shall not extend the time for such seizure beyond thirty days. 3-4 Geo. V. c. 34.

OFFENCES AND PENALTIES.

Impeding the operations of the company.

39. Any person who resists or impedes the company or any of its servants in the transmission of any timber through or over any such works, or in carrying out any regulations of the company for the greater safety and regularity of such transmission, or resists the company or its servants who may require access to any raft or other timber to ascertain the just tolls thereon, or in any way molests the company or its servants in the exercise of any rights conferred upon them by this Act, shall incur a penalty of not less than \$1 or more than \$10. 3-4 Geo. V. c. 34, s. 39.

Service of summons.

40. In any prosecution under this Act the summons may be served either personally or by leaving a copy of it at the usual place of abode of the party named in it or with any adult person belonging to the raft to which such party is attached. 3-4 Geo. V. c. 34, s. 40.

Fines, etc., to be paid to the treasurer of the company.

41. The penalties when collected shall be paid to the treasurer of the company owning the works in respect of which they were imposed for the use of the company. 3-4 Geo. V. c. 34, s. 41.

Limitation of actions.

42. An action against any person for any matter or thing done in pursuance of this Act shall be brought within six months next after the fact committed and not afterwards. 3-4 Geo. V. c. 34, s. 42.

MISCELLANEOUS.

Powers of Minister evidence.

43. The Minister may administer oaths and take evidence upon oath as to all such matters and things as come before him under this Act, and may by writing authorize any person, to whom any matter or thing under this Act shall be referred, to administer oaths and take evidence upon oath for the purposes of this Act. 3-4 Geo. V. c. 34, s. 43.

44.—(1) The company shall, within two years from its incorporation, complete every work undertaken by it and mentioned in the report required prior to its incorporation, and for the completion of which the company is incorporated; in default of which the company shall be liable to forfeit the right to all the corporate and other powers and authority which it has acquired; and the Attorney-General may cause proceedings to be taken in the name of His Majesty to set aside the charter by serving notice upon the company, and the Lieutenant-Governor in Council may, after an opportunity to be heard has been given to the company, declare that its corporate powers shall cease and determine at a date to be named in the Order in Council.

Time for
completion
of works.

(2) From and after such date all the corporate powers of the company shall cease and determine unless, prior to the taking of proceedings by the Attorney-General, further time is granted by the Minister, or the completion of the works appears to be unnecessary and is dispensed with by him.

Cesser of
corporate
powers.

(3) If the company abandons for one year any works completed by it so that the same are not in sufficient repair and cannot be used for the purpose for which they were undertaken the corporate powers of the company shall cease and determine, unless the maintenance of the work or the part of it so abandoned becomes unnecessary owing to the clearance or removal of the timber from the immediate neighbourhood thereof, or unless the abandonment of the same is permitted by the Minister. 3-4 Geo. V. c. 34, s. 44.

Default in
completing
works.

Abandon-
ment.

45.—(1) After any works constructed by a company have been completed and tolls established the company shall keep them in good and sufficient repair; and if such works have not been constructed according to the description given thereof in the report required by section 6, or have become insufficient or out of repair, any person interested in the navigation may serve upon any servant of the company a notice of such insufficiency, and if, within a reasonable time after the service of such notice, the necessary repairs have not been completed the company shall be liable for the damage which any person may sustain from the continuance of such insufficiency.

Works to be
kept in good
repair.

(2) No company shall be liable for any damage incurred after the time limited for the existence of the company has expired, or so long as the works are in accordance with the description or specification thereof in the letters patent, supplementary letters patent or other instrument of incorporation required to be registered, nor for any damage arising from the accidental destruction or injury of the works, but only for the damage which may arise from the wilful neglect of the company after notice served upon one of its servants, as hereinbefore provided. 3-4 Geo. V. c. 34, s. 45.

Limitation
of liability
for dam-
ages.

Inspection
of works
under order
of judge.

46.—(1) A judge of the County or District Court of the county or district in which any part of the works of the company complained of is situate, on the complaint of any person interested in the driving or transmission of timber or logs down any river or stream, through or over the works of the company upon which tolls are collected, that the works are clearly inadequate by reason of being out of repair, shall appoint an inspector to examine the works and to report on the state of repair thereof.

Direction
of Judge
for repairs
by com-
pany.

(2) The judge shall, after report of the inspector, order and direct what repairs are necessary and shall be made by the company, and the time by which the same shall be made and completed.

On default
of company,
person in-
terested
may make
same and
have lien.

(3) If the company does not comply with such order the person so interested may make the repairs, and the cost thereof, or such portion of them as the judge determines, shall be paid by the county and be a lien and charge in favour of such person on the works and tolls of the company.

Limit.

(4) No order shall be made in any one year for repairs which will cost more than \$100 upon any one work or improvement.

Deposit to
cover fees.

(5) The judge may require the applicant to deposit with the clerk of the court such sum as will, in the opinion of such judge, be sufficient to pay the fees and expenses of the inspector, to be allowed by such judge at a rate not exceeding \$5 per day and actual travelling expenses, and such sum, when the works are found to be clearly inadequate by reason of being out of repair, may, in the discretion of the judge, be made a lien or charge in favour of the person paying the same on the works and tolls of the company.

Bond to
cover costs.

(6) The applicant shall, before the application comes on to be heard, file with the judge a bond signed by himself in the penal sum of \$100 and by two sufficient sureties, who shall duly qualify, each in the sum of \$50, conditioned to pay to the company such costs connected with the application and subsequent proceedings as the company may become entitled to.

Notice.

(7) Four days' notice of the application shall be sufficient, and the notice may be served upon the president, secretary or superintendent, manager or acting manager, of the company and shall be sufficient.

Costs in
discretion
of Judge,
etc.

(8) The costs incidental to the application shall be upon the County Court or Division Court scale as the judge may direct.

Inspector,
definition
of.

(9) "Inspector" shall mean any person appointed by the Lieutenant-Governor in Council to act as inspector of the works of timber slide companies. 3-4 Geo. V. c. 34, s. 46.

47. Any two companies formed for the construction of works on contiguous streams may unite and form one consolidated company on such terms as to them seem meet; and the name of the company to be then assumed shall thenceforth be its corporate name, and letters patent may, subject to the approval of the Minister, be issued to it, and when issued the consolidated company may exercise and shall enjoy all the rights and shall be subject to all the liabilities of other companies formed under this Act, and which the separate companies had and enjoyed or were subject or liable to before their union. 3-4 Geo. V. c. 34, s. 47.

When companies may be united.

48. Whenever the Lieutenant-Governor in Council deems it expedient for the public service he may declare any company formed under this Act to be dissolved, and may declare all the works of such company to be public works upon payment to such company of the then actual value of the works to be determined in accordance with the provisions of *The Ontario Public Works Act*. 3-4 Geo. V. c. 34, s. 48.

When the Lieutenant-Governor in Council may declare a company dissolved.

Rev. Stat. c. 35.

49. Where a company incorporated under chapter 153 of the Revised Statutes of 1877, or under chapter 68 of the Consolidated Statutes of Canada, applies for the issue of letters patent under *The Ontario Companies Act* letters patent may, subject to the approval of the Minister, be issued conferring upon the company any of the powers authorized by this Act, and by such letters patent the term of existence of the said company may be limited and the company shall be subject to the provisions of this Act. 3-4 Geo. V. c. 34, s. 49.

Letters Patent may limit term of existence of certain companies.

Rev. Stat. c. 178.

50.—(1) The term of existence of any company incorporated for a limited period may be extended for such a number of years as the Lieutenant-Governor in Council may, previous to the expiry of such period, direct.

Extension of existence of company by supplementary letters patent.

(2) Where any extension or improvement of the works or any new works proposed to be undertaken, are approved by the Minister supplementary letters patent may be issued authorizing the construction of such extension or improvement or such new works as the case may be. 3-4 Geo. V. c. 34, s. 50.

Issue of supplementary letters patent for extensions or improvements.

51. Sections 30, 45 and 48 shall not apply to a company incorporated before the 5th day of March, 1881, unless and until such company has become re-incorporated under section 72 of *The Ontario Joint Stock Companies' Letters Patent Act*, or under *The Ontario Companies Act*; but in lieu of those sections, sections 57, 73 and 75 of chapter 153 of the Revised Statutes of 1877, shall apply to a company so incorporated and not re-incorporated, and sections 3, 8 to 10, 12 to 26 and 29 to 40 of that chapter 153 shall also continue to apply to every such company. 3-4 Geo. V. c. 34, s. 51.

Companies incorporated before March 5, 1881. Rev. Stat. 1887, c. 157, s. 72. Rev. Stat. c. 178.

CHAPTER 182.

An Act respecting Companies for the Construction
of Wharfs and Harbours.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as *The Wharfs and Harbours Act*.
2 Geo. V. c. 32, s. 1.

Application
of Act. 2. This Act shall apply to every company heretofore or
hereafter incorporated for constructing a pier or wharf, for
dredging, deepening or making a harbour, or for the erection
of a dry dock and marine railway connected therewith.
2 Geo. V. c. 32, s. 2.

Company's
right of de-
tention and
sale. 3.—(1) The company may detain any goods, wares or
merchandise, or any vessel, boat or craft until the tolls or
charges thereon have been paid, and may sell any vessel or
boat for the charges for repairs thereof when such charges
have remained unpaid for thirty days.

Sale of
goods for
dues. (2) Where the charges for wharfage or storage dues on
goods, wares or merchandise have remained unpaid for thirty
days the company, after giving ten days' notice of sale, may,
by public auction, sell such goods, wares or merchandise or
such part thereof as may be necessary to pay such dues, and
shall return any overplus to the owner thereof.

Return of
surplus to
owner.
R.S.O. c. 37,
s. 345 (2),
(3). (3) The company shall pay or deliver the surplus, if any,
or such of the goods as remain unsold to the person entitled
thereto. 2 Geo. V. c. 32, s. 3.

Power of
municipal
corporation to
hold shares. 4. The corporation of the municipality in which any such
work is to be constructed may subscribe for, acquire, hold
and transfer shares in the company or may direct the head of
the municipality to subscribe for such shares in the name of
the corporation and to act for the corporation in all matters
relating to such shares and the exercise of the rights of the
corporation as a shareholder; and the head of the municipal-
ity, whether otherwise qualified or not, may vote and act in
respect of such shares, subject to any rules and orders in rela-
tion to his authority made by the council, and according to
his discretion in cases not provided for by the council. 2 Geo.
V. c. 32, s. 4.

And to vote.

5. A company may sell to the corporation of any municipality in which the work is situate, and any such corporation may purchase the undertaking and assets of the company at the value agreed on between them, and the corporation shall in all respects thereafter stand in the place of the company and possess all its powers and authority. 2 Geo. V. c. 32, s. 5.

Power of
municipal
corporation to
purchase
undertaking
and assets.

CHAPTER 183.

An Act respecting Insurance.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PART I.

Short title.

1. This Act may be cited as *The Ontario Insurance Act*.
2 Geo. V. c. 33, s. 1.

Interpretation.

2. In this Act,

"Account."

- (1) "Account" shall include travelling expenses, all fees and allowances and bills of costs;

"Actuarial liabilities."

- (2) "Actuarial liabilities" shall mean the liabilities chargeable against an insurance corporation in respect of its insurance contracts before their maturity;

"Actuarial solvency."

- (3) "Actuarial solvency" shall mean the solvency of an insurance corporation when its actuarial liabilities are charged or treated as present liabilities;

"Appeal."

- (4) "Appeal" shall include a judicial revision or review of a judgment, decision, order, direction, determination, finding or conviction, and a case stated or reserved, and a removal of proceedings by way of *certiorari* or otherwise;

"Assessment insurance," or
"insurance on the assessment system."

- (5) "Assessment insurance" or "insurance on the assessment system," shall include any contract in which the premium, not being a premium note within the meaning of clause 46 of this section, consists of sums uncertain or variable in time, number or amount; and also any contract whereby the benefit is in any manner or degree made dependent upon the collection of sums levied upon persons holding similar contracts, or upon members of the contracting corporation, and shall also include any assessment insurance undertaken or transacted under the authority of *The Insurance Act* of Canada;

9-10 Edw.
VII. (Dom.)
c. 32.

"Beneficiary."

- (6) "Beneficiary" shall include every person entitled to insurance money, and the executors, administrators and assigns of any person so entitled;

- (7) "Beneficiary for value" shall mean a beneficiary ^{"Beneficiary for value."} for a valuable consideration other than marriage;
- (8) "Branch" shall mean any number of the members ^{"Branch."} of a corporation under the control of a central body, having a separate insurance fund administered by themselves, and shall include a committee having, under the authority of an Act of Canada, the management of a benefit, insurance or gratuity fund;
- (9) "Canadian company" or "Canadian corporation" shall mean a company or body incorporated ^{"Canadian Company or Corporation."} by or under the authority of an Act of the Parliament of Canada;
- (10) "Cash-mutual company" shall mean a company ^{"Cash mutual company."} organized to transact mutual insurance, but empowered to undertake contracts of insurance on both the cash plan and the premium note or mutual plan;
- (11) "Chief Agency" shall mean the principal office ^{"Chief Agency."} or place of business in Ontario of an extra-provincial corporation undertaking insurance in Ontario;
- (12) "Collector" shall include every officer, agent or person receiving pay, however remunerated, who ^{"Collector."} by himself or by any deputy or substitute collects premiums, fees, assessments or other money for an insurance corporation;
- (13) "Company" shall mean and include any corporation, or any society or association, incorporated or unincorporated, or any partnership, or any underwriter that undertakes or effects for valuable consideration, or agrees or offers so to undertake or effect, in Ontario, any contract of insurance within the meaning of this Act; ^{"Company."}
- (14) "Contract of insurance" shall mean and include ^{"Contract of insurance."} any policy, certificate, interim receipt, or renewal receipt, or writing evidencing the contract, or any contract or agreement sealed, written or oral, the subject matter of which is insurance;
- (15) "Contributory" shall mean a person who is liable ^{"Contributory."} to contribute to the assets of an insurance corporation under this Act;
- (16) "Corporation" or "Insurance corporation" shall include any corporation which undertakes ^{"Corporation" or "Insurance corporation."} or offers to undertake a contract of insurance, and also any continuously existent body which undertakes or offers to undertake such contract,

and which, though not actually incorporated, is nevertheless legally entitled to sue and be sued in the name of any officer thereof, or of a public officer;

"Credit Insurance."

- (17) "Credit Insurance" shall mean insurance against the insolvency of debtors or against loss from giving or extending credit;

"Creditor."

- (18) "Creditor" shall include every person entitled to claim under a matured policy or under a policy which has attained a fixed surrender value; and, subject to section 217, in the case of an insurance corporation required by law or departmental regulation to maintain an ascertained or ascertainable reserve to meet its actuarial liabilities under unmaturing policies, "creditor" in a winding up or liquidation under this Act shall also include any person who is a policy holder or beneficiary for value;

"Declaration."

- (19) "Declaration" shall include any mode of designating in writing a beneficiary or of apportioning or reapportioning insurance money among beneficiaries;

"Department."

- (20) "Department" shall mean the Department of Insurance of Ontario;

"Directors."

- (21) "Directors" shall include the board or committee, by whatever name known, having the management of an insurance corporation;

"Due application."

- (22) "Due application" shall include such information, evidence and material as the Superintendent or Registrar requires to be furnished; and also the payment of the fees hereinafter prescribed in respect of any application, certificate or document required or issued by virtue of this Act;

"Endowment insurance."

- (23) "Endowment insurance" shall mean an undertaking to pay an ascertained or ascertainable sum at a fixed future date, if the assured is then alive, or at his death, if he dies before such date, and shall include an undertaking to pay such sum on the assured reaching a stated age or attaining his expectation of life;

"Executive Officers."

- (24) "Executive officers" shall mean the persons who under the constitution and rules of a friendly society are entrusted with the management of its affairs;

"Extra Provincial corporation."

- (25) "Extra Provincial corporation" shall mean a corporation, not incorporated by or under the authority of a statute of Ontario and undertaking insurance in Ontario;

- (26) "Fidelity Insurance" shall mean insurance ^{"Fidelity Insurance."} against the dishonesty, unfaithfulness, negligence, or default of employees, or trustees, or persons occupying public or private positions of duty, trust, confidence or agency;
- (27) "Foreign Jurisdiction" shall include any juris- ^{"Foreign Jurisdiction."} diction other than of Ontario;
- (28) "Friendly Society" or "Society" shall include ^{"Society" or "Friendly Society."} any corporation, society, association, or fraternity, benevolent, mutual, provident, industrial, or co-operative, or the like which, not being a corporation or required by law to be licensed for the transaction of insurance, undertakes or effects for valuable consideration, or agrees or offers so to undertake or effect, with any person in Ontario any contract of insurance;
- (29) "Guarantee Insurance" shall include ^{"Guarantee Insurance."} "Credit Insurance," "Fidelity Insurance," and "Title Insurance," and any contract whereby the insurer ^{Contracts of suretyship, etc.} undertakes suretyship; or undertakes to pay money or perform a contract, trust or duty on default of another who is in the first instance liable for such payment or performance;
- (30) "Head office" shall mean the place where the ^{"Head office."} chief executive officers of an insurance corporation are authorized to transact its business;
- (31) "Inland marine insurance" shall mean marine ^{"Inland marine insurance."} insurance in respect of subjects of insurance at risk above the harbour of Montreal;
- (32) "Insurance" shall include the following, whether ^{"Insurance."} the contract be one of primary insurance, or of reinsurance, and whether the premium payable be a sum certain, or consist of sums uncertain or variable in time, number or amount—
- (a) Insurance against death, sickness, infirmity, casualty, accident, disability or any change of physical or mental condition;
 - (b) Insurance against financial loss; or against loss of work, employment, practice, custom, wages, rents, profits, income or revenue;
 - (c) Insurance of property against any loss or injury from any cause whatsoever, whether the obligation of the insurer is to indemnify by a money payment or by restoring or reinstating the property insured;
 - (d) Contracts of endowment, assessment-endowment, tontine, semi-tontine, life-time benefits,

annuities on lives, or contracts of investment involving tontine or survivorship principles for the benefit of persisting members; and any contract of investment involving life contingencies;

- (e) Any contract made in consideration of a premium and based on the expectancy or expectation or probability of life; and any contract made on such consideration and having for its subject the life, safety, health, fidelity or insurable interest of any person, whether the benefit under the contract is primarily payable to the assured or to a donee, grantee or assignee, or to trustees, guardians or representatives, or to or in trust for any beneficiary, or to the assured by way of indemnity or insurance against any liability incurred by him by or through the death or injury of any person.
- (f) Any investment contract under which lapses or payments made by discontinuing members or investors accrue to the benefit of persisting members or investors, except where a corporation other than an insurance corporation is expressly authorized to undertake such contract by a statute in force in Ontario.
- (g) Generally any contract in the nature of any of the foregoing whereby the benefit under the contract accrues payable on or after the occurrence of some contingent event;

(Note.—“Insurance on the Assessment System” defined under “Assessment Insurance.”)

“Insurance on the cash plan.”

- (33) “Insurance on the cash plan” shall mean insurance given for a money consideration without premium note;

(Note.—“Insurance Corporation” defined under “Corporation.”)

“Insurance fund” or “insurance funds.”

- (34) “Insurance fund” or “insurance funds,” as applied to a friendly society or as applied to any corporation not incorporated exclusively for the transaction of insurance, shall include all money, securities for money, and assets appropriated by the rules of the society or corporation to the payment of insurance liabilities or appropriated for the management of the insurance branch or department or division of the society, or otherwise legally available for insurance liabilities, but shall

not include funds of a trade union appropriated to or applicable for the voluntary assistance of wage-earners unemployed or upon strike;

- (35) "Insurance of the person" shall include insurance against death, sickness, infirmity, casualty, accident, disability, or against any change of physical or mental condition, and any contract of insurance having for its subject the life, health, safety or physical or mental condition of a person; ^{"Insurance of the person."}
- (36) "Insurance money" shall include every benefit and bonus payable by the insurer under the contract of insurance; ^{"Insurance money."}
- (37) "Lodge" shall include a primary subordinate division, by whatever name known, of a friendly society; ^{"Lodge."}
- (38) "Master" shall mean the Master in Ordinary in the case of a corporation having its head office at Toronto or in the County of York; and in the case of a corporation having its head office in any other county or in a district shall mean the local Master in such county or district; ^{"Master."}
- (39) "Member," as applied to any mutual or cash-mutual company transacting fire, live-stock or weather insurance, shall mean a policy-holder on the premium note plan, and as to a mutual or cash-mutual company, having joint stock capital, shall include any holder of shares of such capital; ^{"Member."}
- (40) "Minister" shall mean that member of the Executive Council charged for the time being by the Lieutenant-Governor in Council with the administration of this Act; ^{"Minister."}
- (41) "Municipality" shall include a provisional judicial district and any locality the inhabitants of which are incorporated; ^{"Municipality."}
- (42) "Mutual insurance," in the case of fire, live-stock or weather insurance, shall mean insurance in consideration of a premium note with or without an immediate cash payment thereon; and "mutual company" shall mean a company empowered solely to transact such insurance; ^{"Mutual insurance." "Mutual company."}
- (43) "Nominee," when used with reference to annuities on lives, shall mean a designated person on whose life another's annuity depends; ^{"Nominee."}

- " Officer." (44) " Officer " shall include any trustee, director, manager, treasurer, secretary or member of the board or committee of management of a corporation or any person appointed by the corporation to sue and be sued in its behalf;
- " Policy." (45) " Policy " shall include any contract of insurance within the meaning of this Act;
- " Premium note." (46) Premium note " shall mean an instrument given as consideration for fire or live-stock or weather insurance whereby the maker undertakes to pay such sum or sums as may be legally demanded by the insurer, the aggregate of such sums not to exceed an amount specified in the instrument;
- " Provincial company or corporation." (47) " Provincial company " or " Provincial corporation " shall mean a company or body incorporated by or under an Act of this Legislature;
- " Receiver." (48) "Receiver" shall include interim receiver;
- " Registrar." (49) " Registrar " shall mean the Registrar of Friendly Societies;
- " Registry." (50) " Registry " shall mean registration in the Insurance Company Register, or in the Friendly Society Register, according as the matter pertains to an insurance company or a friendly society respectively, and shall include extension or renewal of registry;
- " Rules." (51) " Rules " shall mean and include provisions of the constitution and rules or regulations, or resolutions or by-laws in force for the time being;
- "Solvent." (52) " Solvent," as applied to a friendly society not undertaking endowment insurance or annuities, shall mean a society respecting which it has been made to appear to the Registrar that the society has no present liabilities apart from actuarial liabilities, or has immediately realizable assets adequate to discharge its present actual liabilities;
- " Superintendent." (53) " Superintendent " shall mean the Superintendent of Insurance and shall include the Deputy Superintendent of Insurance;
- " Title Insurance." (54) " Title Insurance " shall include insurance whereby the insurer insures the validity of title to property real or personal or insures the legality and validity of written obligations or of other instruments;

- (55) "Trade union" shall mean an organization of wage-earners of a particular trade or industrial calling constituted primarily and operated *bona fide* for regulation of wages and hours of labour as between employers and employed; but shall not include a co-operative association or society; "Trade or labour union or organization."
- (56) "Upon proof," as applied to any matter connected with the registry of a corporation or person, or with the registration of any matter or thing required by this Act to be registered shall mean upon proof to the satisfaction of the Superintendent; "Upon proof."
- (57) "Will" shall mean last will and testament. 2 Geo. V. c. 33, s. 2. "Will."

3. For the purposes of this Act there shall be a Department of Insurance, and the same shall be presided over by the Minister. 2 Geo. V. c. 33, s. 3. The Department of Insurance.

4.—(1) The Lieutenant-Governor in Council may appoint an officer to be called the Superintendent of Insurance who shall act under the direction of the Minister. Appointment of Superintendent of Insurance.

(2) The Superintendent shall have general supervision of the business of insurance within Ontario and shall see that the laws relating to the conduct thereof are enforced and obeyed. His duties.

(3) The Superintendent shall examine and report to the Minister from time to time upon all matters connected with insurance. To report to Minister.

(4) The Lieutenant-Governor in Council may also appoint an officer to be called the Registrar of Friendly Societies who shall perform such duties as are assigned to him by this Act by the Lieutenant-Governor in Council, the Minister or the Superintendent. Registrar of friendly societies.

(5) Until the appointment of a Registrar the Superintendent shall perform the duties of Registrar. Idem.

(6) The Lieutenant-Governor in Council may also appoint an officer to be called the Deputy Superintendent of Insurance who shall act as Superintendent during the absence or inability of the Superintendent, and shall perform such other duties as are assigned to him by this Act, by the Lieutenant-Governor in Council, by the Minister or by the Superintendent and Registrar. Deputy Superintendent of Insurance.

(7) The same person may be appointed both Deputy Superintendent and Registrar. 2 Geo. V. c. 33, s. 4. Who may be appointed.

5. For the purposes of his duties under this Act or under any other Act relating to insurance, the Superintendent may Evidence.

require to be made and may take and receive affidavits, statutory declarations and depositions, and may examine witnesses upon oath; and he shall have the same power to summon officers of corporations, receivers and liquidators and other persons to attend as witnesses, to enforce their attendance, and to compel them to produce books, documents and things and to give evidence as any Court has in civil cases. 2 Geo. V. c. 33, s. 5.

Contribution
from com-
panies to
expenses.

6.—(1) Towards defraying the expenses of the office of the Superintendent, a sum not exceeding \$5,000 shall be annually contributed by the companies required to be licensed under this Act.

How
determined.

(2) The amount to be annually contributed shall be assessed *pro rata* on the basis of the gross amount at risk as shown by the books of the several companies on the 31st day of December next preceding.

Contribution
to be paid
before
renewal of
license.

(3) A company shall not be entitled to have its license renewed until the amount of its contribution has been paid and the Superintendent's certificate shall be conclusive as to the amount payable. 2 Geo. V. c. 33, s. 6.

Independence
of superin-
tendent and
officers.

7. Neither the Superintendent nor any officer under him shall be interested as a shareholder, directly or indirectly, in any insurance company doing business in Ontario. 2 Geo. V. c. 33, s. 7.

Actions
against
Superinten-
dent or
Registrar.

8. Without a fiat of the Attorney-General, no action or proceeding shall be brought or taken against the Superintendent or Registrar for anything done or not done in the performance, or intended or supposed performance of his duty under this Act, or under any other Act which imposes duties upon them or either of them. 2 Geo. V. c. 33, s. 8.

INCORPORATION OF JOINT STOCK COMPANIES.

Incorporation.

9.—(1) The Lieutenant-Governor in Council may by Letters Patent constitute any number of persons, not less than five, of the full age of 21 years, and any others who become shareholders, a body corporate and politic for the purpose of undertaking and transacting any kind of insurance for which a joint stock company may be licensed under this Act.

Notice of
application.

(2) Applicants for incorporation shall immediately prior to the application publish in at least four consecutive issues of the *Ontario Gazette* notice of their intention to apply, and shall also if so required publish elsewhere notice of such intention.

Contents of
notice.

(3) The notice shall state—

(a) The proposed corporate name of the company;

- (b) The objects for which the company is to be incorporated;
- (c) The kind of insurance proposed to be transacted;
- (d) The place within Ontario where the head office of the company is to be located;
- (e) The amount of the capital stock, number of shares, and the amount of each share;
- (f) The name in full, the place of residence and the calling of each of the applicants; and
- (g) The names of the applicants, not less than five, each being a subscriber for shares to the amount of not less than \$1,000, who are to be the first directors of the company.

(4) The applicants shall deliver to the Superintendent the application for incorporation, and proof that notice thereof has been duly given, and proof of payment of the prescribed fees, and shall also deliver to him for his approval copies of the proposed by-laws of the company, which so far as approved by him shall be the by-laws of the company until repealed, altered or amended under the authority of this Act. 2 Geo. V. c. 33, s. 9.

10. The Letters Patent shall be expressed to take effect on the day of the date of the initial license issued to the company, and notice of the granting of the Letters Patent shall be given forthwith by the Superintendent in the *Ontario Gazette*. 2 Geo. V. c. 33, s. 10.

11.—(1) The affairs of the company shall be managed by a board of not less than five nor more than fifteen directors.

(2) The persons named in the Letters Patent as the first directors of the company shall be the directors of the company until replaced by others duly elected or appointed in their stead. 2 Geo. V. c. 33, s. 11 (1-2).

(3) The first directors shall in the manner provided in section 127 call a general meeting of the shareholders of the company for the election of directors and otherwise for dealing with the business of the company within two months after the incorporation of the company. 2 Geo. V. c. 33, s. 11 (3); 3-4 Geo. V. c. 35, s. 2.

(4) The succeeding directors shall be elected by the shareholders in general meeting at such times, in such manner, and for such term, not exceeding two years, as the by-laws of the company may prescribe.

(5) No person other than a first director shall hold office as a director unless he is a shareholder absolutely in his own right, and not in arrear in respect of any call thereon, of shares of the capital stock of the company to the amount of not less than \$1,000, and where a person who is a director

ceases to be such a shareholder he shall thereupon cease to be a director.

Notice of meetings of company.

(6) Notice of meetings of the company shall be given in the manner prescribed by section 127. 2 Geo. V. c. 33, s. 11 (4-6).

Application of ss. 121 and 126.

12. Sections 121 and 126 shall apply to joint stock companies. 2 Geo. V. c. 33, s. 12.

Capital stock. When to be not less than \$500,000.

13.—(1) If the company undertakes

- (a) fire, or
- (b) fire and inland marine, or
- (c) accident, or
- (d) life, or
- (e) life and accident, or
- (f) sickness and accident insurance, or
- (g) guarantee, or suretyship insurance,

the authorized capital stock shall be not less than \$500,000.

When to be not less than \$300,000.

(2) If the company undertakes live stock insurance, with or without insurance on vehicles, the authorized capital stock shall be not less than \$300,000.

When to be not less than \$100,000.

(3) If the company undertakes insurance other than that mentioned in the preceding subsections against loss or damage to property from any accidental causes, including boiler and other explosions or by reason of theft, house-breaking or burglary, the authorized capital stock shall be not less than \$100,000.

When to be not less than \$25,000.

(4) If the company undertakes bicycle or vehicle insurance, or plate glass insurance, the authorized capital stock shall be not less than \$25,000.

Amount of shares.

(5) The capital stock shall be divided into shares of \$100 each.

Money paid before organization.

(6) No money paid on account of shares before the first general meeting of the company has been organized shall be withdrawn or paid over to the company until after such meeting has been organized and the election of directors thereat.

Increase of capital stock.

(7) A company may with the assent of the Lieutenant-Governor in Council increase its capital stock to such an amount as he may deem expedient.

Notice of application for increase.

(8) Notice of any application under subsection 7 shall be published in at least four consecutive issues of the *Ontario Gazette*. 2 Geo. V. c. 33, s. 13.

Revocation, etc., of Letters Patent.

14. The Letters Patent and any Supplementary Letters Patent amending or varying the same may at any time be declared to be forfeited and may be revoked and made void by the Lieutenant-Governor in Council on sufficient cause

being shown in that behalf and such forfeiture, revocation and making void may be upon such conditions and subject to such provisions as he may deem proper. 2 Geo. V. c. 33, s. 14.

FORMATION AND INCORPORATION OF MUTUAL FIRE INSURANCE COMPANIES.

15. Where it appears to the Minister that there is in any municipality no adequate provision for insurance of farm and non-hazardous property on the mutual plan against fire the Minister may certify that fact, and thereupon ten freeholders in the municipality may call a meeting of the freeholders thereof to consider whether it is expedient to establish therein a fire insurance company upon the mutual plan. 2 Geo. V. c. 33, s. 15.

Meeting to establish company, how called.

16. The meeting shall be called by advertisement stating the time, place and object of the meeting; and the advertisement shall be published once in the *Ontario Gazette* and once a week for three successive weeks in a newspaper published in the county or district in which the municipality is situate. 2 Geo. V. c. 33, s. 16.

Advertisement calling meeting.

17. If thirty freeholders are present at the meeting and a majority of them determine that it is expedient to establish a mutual fire insurance company they may elect from among themselves three persons to open and keep a subscription book in which owners of real or personal property within Ontario may sign their names and enter the sum for which they shall respectively bind themselves to effect insurance with the company. 2 Geo. V. c. 33, s. 17.

Subscription book.

18. When one hundred or more of such owners have signed their names in the subscription book and bound themselves to effect insurance in the company amounting in the aggregate to not less than \$250,000 a meeting shall be called as hereinafter provided. 2 Geo. V. c. 33, s. 18.

When meeting may be called.

19.—(1) When the subscription has been completed any ten of the subscribers may call the first meeting of the proposed company at such time and place within the municipality as they may determine by sending a printed notice by mail, addressed to every subscriber at his post office address, at least ten days before the day of the meeting, and by advertisement in a newspaper published in the county or district in which the municipality is situate.

How meeting to be called.

(2) The notice and advertisement shall state the object of the meeting, and the time and place at which it is to be held. 2 Geo. V. c. 33, s. 19.

Contents of notice.

20.—(1) At such meeting, or at any adjournment of it, the name and style of the company, which shall include the

Election of directors.

words "fire" and "mutual," shall be adopted, a secretary *ad interim* appointed, a board of directors elected as herein-after provided and some central and generally accessible place within the municipality, or within a municipality adjacent thereto, named, at which the head office of the company shall be located.

Quorum of meeting.

(2) The presence of at least twenty-five of the subscribers shall be necessary to constitute a valid meeting.

Meeting of directors to elect president and officers.

(3) As soon as convenient after the meeting the secretary *ad interim* shall call a meeting of the board of directors for the election from among themselves of a president and vice-president, for the appointment of a secretary and a treasurer or a secretary-treasurer or a manager and the transaction of such other business as may be brought before the meeting. 2 Geo. V. c. 33, s. 20.

Certain documents to be delivered.

21.—(1) Thereupon there shall be delivered to the Superintendent, certified as correct under the hands of the chairman and secretary:

(a) A copy of the minutes of the meetings including all resolutions respecting the objects of the proposed company, its name or style, and the location of its head office;

(b) A copy of the subscription book;

(c) A list showing the names and addresses of the directors elected and of the officers appointed.

Production of originals.

(2) There shall also, for verification, be produced to the Superintendent the originals of such documents. 2 Geo. V. c. 33, s. 21.

Superintendent to ascertain correctness of proceedings.

22. Upon the receipt by the Superintendent of the documents mentioned in section 21 he shall ascertain and determine whether the proceedings for the incorporation of the company have been taken in accordance with the provisions of this Act, and whether the subscriptions are *bona fide*, and by persons possessing property to insure, and whether the proposed name is the same as that of any existing company, or may be easily confounded therewith, or is otherwise objectionable. 2 Geo. V. c. 33, s. 22.

His report.

23.—(1) If the Superintendent determines that the provisions of this Act have been complied with and that there is no reason why the company should not be incorporated he shall so report to the Minister.

Certificate of incorporation.

(2) Upon receipt of the report the Minister under his hand and seal of office may issue a certificate of incorporation in as many original parts as may be required, one of which shall be filed and recorded in the office of the Provincial Registrar.

(3) From the time of the filing of the certificate the proposed company shall become a corporation and the members of the corporation shall be the persons who for the time being are insured therein on the premium note plan, and so long as the company remains duly registered under the provisions of this Act it shall be capable of undertaking in Ontario fire insurance on the mutual plan in the terms of its license. 2 Geo. V. c. 33, s. 23. Effect of certificate as incorporation.

24. After the filing of the certificate the Minister may Licence. issue a license to the company to transact the kind of business specified therein for a term, not exceeding twelve months from the date of issue; and such license may from time to time be renewed for a like term. 2 Geo. V. c. 33, s. 24.

SHARE OR STOCK CAPITAL IN CASH-MUTUAL FIRE INSURANCE COMPANIES; CONVERSION OF CASH-MUTUAL INTO JOINT STOCK COMPANIES.

25. No cash-mutual insurance company shall hereafter be incorporated. 2 Geo. V. c. 33, s. 25. Cash-mutual company not to be incorporated.

26. Sections 27 to 32 shall apply only to cash-mutual fire insurance companies licensed and registered at the time of the passing of this Act. 2 Geo. V. c. 33, s. 26. Application of ss. 27-32 to present cash-mutual companies.

27.—(1) A cash-mutual insurance company which now has a share or stock capital, with the assent of the Lieutenant-Governor in Council, may from time to time increase its share or stock capital to such an amount as he may deem expedient. Increasing share capital.

(2) Notice of any application to the Lieutenant-Governor in Council under this section shall be published in at least four consecutive issues of the *Ontario Gazette*. 2 Geo. V. c. 33, s. 27. Notice of application.

28. Every subscriber to such share capital shall, on allotment of one or more shares, become a shareholder of the company. 2 Geo. V. c. 33, s. 28. Subscribers to become shareholders of company.

29. No insurance on the wholly cash plan shall make the insured a member of the company, or liable to contribute or pay any sum to the company, or to its funds, or to any other member thereof, beyond the cash premium agreed upon, or give him any right to participate in the profits or surplus funds of the company. 2 Geo. V. c. 33, s. 29. Insurance on cash plan not to constitute membership.

30. The net annual profits and gains of the company not Dividends. including therein any premium notes shall be applied in the first place to pay a dividend on the share capital not exceeding the rate of ten per centum per annum, and the surplus, if any, shall be applied in the manner provided by the by-laws of the company. 2 Geo. V. c. 33, s. 30; 3-4 Geo. V. c. 35, s. 3.

When cash-mutual company may become a joint stock company.

31.—(1) A company which has surplus assets, not including premium notes, sufficient to reinsure all its outstanding risks may be formed into a joint stock company in the manner provided by section 9, upon making application as provided by that section.

Approval of members and shareholders.

(2) The application shall not be made until approved by the members by a vote representing at least two-thirds of the amount of the unexpired risks, and if the company has share capital by two-thirds in value of the shareholders, at an annual general meeting or at a special general meeting, and by three-fourths in number of the directors of the company in writing signed by them.

Notice of application.

(3) Notice of the intention to make the application and of the consideration thereof at such meeting shall be given by advertisement in the *Ontario Gazette* and in a newspaper published in the county or district in which the head office of the company is situate at least once a week for four successive weeks before the holding of the meeting.

Priority of members in subscribing to stock.

(4) Every person who is a member of the company on the day of the meeting shall be entitled to priority in subscribing to the capital stock of the company for one month after the opening of the books of subscription in the ratio that the insurance held by him bears to the aggregate of the unexpired risks then in force. 2 Geo. V. c. 33, s. 31.

Vesting of assets and preservation of liabilities.

32. Any company formed under the provisions of the next preceding section shall be answerable for all liabilities of the company from which it has been formed, and may sue and be sued under its new corporate name, and the assets and property of the old company shall be vested in the new company from the date of its formation. 2 Geo. V. c. 33, s. 32.

INCORPORATION OF FRIENDLY SOCIETIES.

No friendly society formed after 10th March, 1890, to undertake insurance.

33.—(1) No company, society, association or organization incorporated after the tenth day of March, 1890, under Chapter 172 of The Revised Statutes of Ontario, 1887, or under Chapter 211 of The Revised Statutes of Ontario, 1897, shall undertake or effect or agree or offer to undertake or effect any contract of insurance within the meaning of section 2.

Penalty.

(2) Any person who acts or purports to act for any such corporation in any such contract or offer shall be guilty of an offence against this Act.

Existing rights, etc., of friendly societies preserved.

Rev. Stat. c. 178.

(3) Neither the repeal by *The Ontario Companies Act* of the Acts mentioned in subsection 1 nor anything in this Act shall impair or affect the corporate existence, rights and powers of a friendly society incorporated under either of those Acts which is registered under this Act nor the rights and privileges of the members thereof or their beneficiaries. 2 Geo. V. c. 33, s. 33.

34.—(1) If it appears to the Lieutenant-Governor in Council that any body incorporated under the enactments referred to in section 33 exists or is using its corporate powers for any fraudulent or unlawful purpose, the Lieutenant-Governor in Council may suspend for a limited period, or revoke its corporate powers, and on any revocation the corporate powers shall *ipso facto* absolutely cease and determine except for the sole purpose of winding up its affairs in the manner provided in section 46.

Unlawful
use of
corporate
powers

Suspension or
revocation of.

(2) Notice of any such suspension or revocation shall be published in the *Ontario Gazette* and also elsewhere if the Lieutenant-Governor in Council so directs.

Publication of
notice of.

(3) If during the suspension, or after the revocation of its corporate powers, any director, officer, agent, employee, or other person acting or purporting to act on behalf of the corporation undertakes any contract of insurance he shall be guilty of an offence against this Act. 2 Geo. V. c. 33, s. 34.

Penalty for
undertaking
insurance
during sus-
pension or
after revoca-
tion.

35. On an application to the Registrar for incorporation as a friendly society under sections 36 to 41 the applicants shall be required to show to his satisfaction the necessity for the society proposed to be incorporated, and that the granting of the application would not be contrary to the public interest. 2 Geo. V. c. 33, s. 35.

Applicant
to show
necessity
for incor-
poration.

36.—(1) Where a friendly society, registered under this Act, has its head office elsewhere than in Ontario, the Grand or other Provincial body, or the lodges or a majority of the lodges in Ontario may file with the Registrar an application for incorporation under this Act, setting forth the reasons for seeking incorporation, the proposed corporate name, and head office, and the purposes and rules of the society, and naming the persons who are to be its first trustees or managing officers, and stating the mode in which their successors are to be elected; and shall furnish such other information as the Registrar may require.

Foreign
friendly
societies;
incorpora-
tion of Pro-
vincial body.

(2) Upon due application made, the Registrar may name a day for the hearing of the application, and such notice of the hearing shall be published in the *Ontario Gazette* and otherwise as the Registrar directs.

Hearing of
applications
and notice.

(3) If, upon the hearing, it appears to the Registrar that such incorporation ought to be granted, he shall certify in duplicate, or in as many parts as may be required, under his hand and the seal of his office, that he finds the persons mentioned therein entitled to incorporation under the name and for the purposes specified in the certificate.

Certificate
of incorpora-
tion.

(4) One of the original parts of the certificate shall be filed in the office of the Provincial Registrar, together with such other documents as the Registrar by his certificate

Filing of
certificate.

requires to be filed; and from the day of such filing the persons mentioned in the certificate and their associates and successors shall be a corporation. 2 Geo. V. c. 33, s. 36.

Incorporation of auxiliary bodies.

Or societies jointly.

37. Where in the opinion of the Registrar it is necessary or expedient that an auxiliary, or local or subordinate body or branch of a registered society should be separately incorporated or separately registered, or both, or that two or more societies should be incorporated or registered as one society, the Registrar may direct the like proceedings to be taken as in the next preceding section mentioned, and the filing of his certificate in the office of the Provincial Registrar shall have the same effect as therein provided. 2 Geo. V. c. 33, s. 37.

Incorporation of subordinate lodges. Registration.

38. Any unincorporated lodge or body controlled by a registered society, and operated under uniform rules prescribed by the society, and not contrary to law, may, through the society, make application to the Registrar for incorporation; and if it appears to him that incorporation ought to be granted he may certify the same under his hand and the seal of his office; and the filing of his certificate in the office of the Provincial Registrar shall have the same effect as provided by section 36. 2 Geo. V. c. 33, s. 38.

And of officers of superannuation or benefit funds.

39. The officers of any superannuation or benefit fund authorized by law may, in the manner and by the proceedings mentioned in section 36, become incorporated. 2 Geo. V. c. 33, s. 39.

Incorporation of trade unions and wage-earners' societies.

40. Upon like proceedings and in the manner provided by section 36 incorporation may be granted:—

(a) Where a trade union purposes to undertake contracts with its own members exclusively for any of the insurance benefits enumerated in and not prohibited by clause (c) of section 76, or contracts to furnish tools or to pay unemployed or superannuation benefits to the members;

(b) Where any organization of persons resident in Ontario consisting of not less than seventy-five members and managed and operated as a friendly society under rules conforming to this Act purposes to contract with its own members exclusively for sick benefits, not exceeding six dollars per week and a funeral benefit of not more than one hundred and fifty dollars, or either of such benefits. 2 Geo. V. c. 33, s. 40.

Revocation of warrant to subordinate lodge.

41.—(1) If a registered friendly society revokes the warrant or charter under which a subordinate branch or lodge is operated in Ontario, whether such branch or lodge is incorporated or not, such revocation shall be certified in

duplicate by the presiding officer and the secretary of the society under the seal thereof and one of the duplicates shall be filed with the Registrar and the other with the Provincial Registrar.

(2) The certificate from the filing thereof in the office of the Provincial Registrar shall, *ipso facto*, operate to dissolve the subordinate branch or lodge, and to vest its property, assets, funds and effects in the presiding officer and the secretary of the society and their successors in office, as trustees for the creditors and persons beneficially entitled; and the surplus, if any, after the liabilities are satisfied, shall vest in the society. 2 Geo. V. c. 33, s. 41.

42. Where any society, association, union, organization or lodge already incorporated, becomes incorporated under this Act the prior incorporation shall be merged in and superseded by the later incorporation. 2 Geo. V. c. 33, s. 42.

43. A registered friendly society organized on the lodge plan may by general or special by-law provide for the method by which two or more of its subordinate branches or lodges may be amalgamated and the transfer of the liabilities and assets to the new or continuing branch or lodge may be effected. 2 Geo. V. c. 33, s. 43.

PROVISIONS APPLICABLE TO ALL PROVINCIAL INSURANCE CORPORATIONS.

44.—(1) The company shall have a lien on the shares of any shareholder for unpaid calls or other debts due by him to the company and for any obligation held by the company against him.

(2) After any call, debt or obligation becomes due the company may, upon one month's notice to the shareholder, his executors or administrators, sell his shares, or a sufficient number of them, to pay the call, debt or obligation, and may transfer the shares so sold to the purchaser. 2 Geo. V. c. 33, s. 44.

45.—(1) The name of a corporation or the location of its head office may, with the approval of the Lieutenant-Governor in Council, be changed.

(2) The change of name shall not be made unless the Lieutenant-Governor in Council is satisfied that the company is solvent, and that the change desired is not for any improper purpose and is not otherwise objectionable.

(3) Notice of any such change shall be published in the *Ontario Gazette* and otherwise as the Superintendent directs. 2 Geo. V. c. 33, s. 45.

FORFEITURE OF CORPORATE POWERS OF COMPANIES.

Corporate power forfeited by non-user or discontinuance of business; or suspension or cancellation of license.

Except for winding up.

Receiver.

Rights of creditors preserved.

46.—(1) If a company incorporated under the law of Ontario, whether under this Act or under any general or special Act, does not go into actual *bona fide* operation within two years after incorporation; or if, after a company has undertaken contracts, such company discontinues business for one year, or if its license remains suspended for one year, or is terminated otherwise than by effluxion of time and is not renewed within the period of sixty days, the company's corporate powers shall *ipso facto* cease and determine, except for the sole purpose of winding up its affairs; and in any action or proceeding where such non-user is alleged proof of user shall be upon the company, and the Supreme Court, upon the petition of the Attorney-General or of any person interested, may limit the time within which the company shall settle and close its accounts, and may for that purpose or for the purpose of liquidation generally appoint a receiver.

(2) No such forfeiture shall affect prejudicially the rights of creditors as they exist at the date of the forfeiture. 2 Geo. V. c. 33, s. 46.

GOVERNMENT DEPOSITS.

Certain corporations to make deposits in cash or in certain securities.

Rev. Stat. c. 121.

Application of section.

Initial deposits.

Renewal and re-adjustment.

47.—(1) Except mutual fire insurance companies licensed only for the insurance of farm buildings and of isolated risks, other than mercantile and manufacturing risks, and mutual live stock and mutual weather insurance companies every company applying for a license to transact insurance shall, before the issue or the renewal of the license or of registry, lodge with the Minister the prescribed deposit, which shall be made in deposit receipts of chartered banks of Canada or in the stock or bonds of the Dominion of Canada or of Ontario, or in deposit receipts or terminable debentures of any corporation in the obligations of which trustees may under *The Trustee Act* invest trust money, and the title to such deposit shall vest in the Minister.

(2) This section in so far as it alters the amount of the deposit required before the 13th day of April, 1897, shall not apply to such companies as before that date made their annual report to the Department.

(3) The initial deposit to be made by any corporation liable to make deposit before the original or initial registry shall be the sum prescribed by subsection 5.

(4) Before the annual renewal of registry the amount of deposit required shall on or before the first day of July in each year be re-adjusted in accordance with the provisions of the next following two subsections.

(5) If on the next preceding 31st day of December the corporation's total contingent liability or amount at risk does not exceed \$2,000,000,

Deposit for
contingent
liability of
\$2,000,000
and under.

- (a) Every joint stock fire or fire and inland marine insurance company, and every life or life and accident insurance company, and every guarantee and surety company shall keep on deposit, if a Provincial or Canadian company, \$25,000, and if a foreign company, \$50,000;
- (b) Every accident, or sickness and accident insurance company, if a Provincial or Canadian company, shall keep on deposit \$20,000, and if a foreign company, \$40,000;
- (c) Every Provincial mutual fire, or Provincial fire and inland marine insurance company, insuring mercantile and manufacturing risks, shall keep on deposit \$10,000, and every Provincial cash mutual fire insurance company, \$10,000;
- (d) Every live stock insurance company having share capital shall keep on deposit, if a Provincial or Canadian Company, \$10,000, and if a foreign joint stock company, \$25,000;
- (e) Every insurance company mentioned in subsection 3 of section 13 shall keep on deposit, if a Provincial or Canadian company, \$10,000, and if a foreign company, \$20,000;
- (f) Every insurance company mentioned in subsection 4 of section 13 shall keep on deposit, if a Provincial or Canadian company, \$5,000, and if a foreign company, \$10,000;
- (g) Every foreign insurance company doing only the business of re-insuring fire risks undertaken by companies registered under this Act shall keep on deposit, \$10,000;
- (h) Every friendly society not being a Provincial corporation mentioned in section 72 shall keep on deposit \$5,000.

(6) If on the preceding 31st day of December in any year the corporation's total contingent liability, or the amount of insurance in force, whether such insurance was undertaken directly or by way of re-insurance, exceeds \$2,000,000, then for each additional \$1,000,000, or fraction thereof, the corporations enumerated in the next preceding subsection shall respectively keep on deposit, by way of additional security, a sum equal to one-tenth of the initial deposit, and the additional deposit shall be in the securities mentioned in subsection 1.

Additional
deposit for
each additional
million or
fraction.

Additional
deposit.

(7) Where the total amount of a company's deposit under this section amounts to twice the initial deposit then for each additional \$1,000,000 or fraction thereof at risk each further addition to the deposit shall be one twenty-fifth of the initial deposit.

Suspension
or cancella-
tion.

(8) Where the company fails to keep its deposit unimpaired as required by this section its license may be suspended or cancelled. 2 Geo. V. c. 33, s. 47.

Voluntary
deposit.

Withdrawal.

48. An insurance company may voluntarily make a deposit in excess of the amount prescribed by section 47, but no part of a voluntary deposit shall be withdrawn without the sanction of the Minister. 2 Geo. V. c. 33, s. 48.

Value at
which cer-
tain securi-
ties received.

49.—(1) Securities of the Dominion of Canada, or of any of the Provinces of Canada, shall be accepted at their market value at the time when they are deposited.

Value at
which other
securities
received.

(2) The other securities shall be accepted at such valuation and on such conditions as the Minister may direct.

Record of
securities.

(3) The Superintendent shall under the name of each corporation keep a record of the securities deposited on its account, naming in detail the several securities, their par value, and the value at which they were received as deposit.

Requiring
further de-
posit on de-
cline of
market
value.

(4) Where the market value of any of the securities deposited declines below the value at which they were deposited the Minister may, from time to time, require the corporation to make a further deposit so that the market value of all the securities deposited by it shall be equal to the prescribed amount.

Securities,
etc., vested
in the Minis-
ter for time
being.

(5) Every security, obligation or covenant, or interest in real or personal property given, transferred to, made with, or vested in the Minister by virtue of his office shall, without any formal transfer, from time to time vest in the Minister for the time being.

Substitution
of securities.

(6) Where a corporation desires to substitute other securities of the class of those mentioned in section 47 for securities deposited with the Minister, he may permit the substitution to be made. 2 Geo. V. c. 33, s. 49.

Voluntary
deposits by
friendly
societies.

50.—(1) A deposit of any amount not less than \$5,000 may, with the consent of the Minister, be made by any registered Provincial friendly society; but no part of such deposit shall be withdrawn without the sanction of the Minister.

Rights of
unmatured
policy holders.

(2) Sections 51 to 61 shall not apply to registered Provincial friendly societies; but in the case of a registered Provincial friendly society any deposit made under this Act shall not make any unmatured policy or contract of insurance a liability against the society while a going society, or against the estate of the society in a winding up or liqui-

dation under this Act; but in such winding up or liquidation the persons assured under such unmatured policies or contracts shall be entitled to share in the surplus assets of the society as provided in subsections 8 and 9 of section 206 or subsection 7 of section 219, as the case may be. 2 Geo. V. c. 33, s. 50.

51. If at any time it appears that a company has on deposit with the Minister a sum in excess of the prescribed amount the Lieutenant-Governor in Council, upon being satisfied that the interest of the company's Provincial policyholders will not be prejudiced thereby, and upon the giving of such notice, and the taking of such other precautions as he may deem expedient, may authorize the withdrawal of the amount of such excess or such portion thereof as he deems advisable; but such withdrawal may be authorized without the giving of any notice. 2 Geo. V. c. 33, s. 51.

Withdrawal
of excess.

52. A company carrying on its business under license from the Dominion of Canada may, with the sanction of the Lieutenant-Governor in Council, withdraw its deposit. 2 Geo. V. c. 33, s. 52.

Withdrawal
of deposit
where com-
pany licens-
ed by Dom-
inion.

53. If from the annual statements or the examination of the affairs and condition of a company it appears in the case of a life insurance company that its policy reserves and in the case of any other company that its unearned premiums in both cases in respect to risks outstanding in Ontario, together with any other liabilities in Ontario, exceed its assets in Ontario, including the deposit in the hands of the Minister, the company shall forthwith make good the deficiency, and on failure so to do its license may be suspended or cancelled, and in case of cancellation, if a Provincial corporation, its corporate powers, except for the purpose of winding up its affairs as provided by section 46, shall thereupon cease and determine. 2 Geo. V. c. 33, s. 53.

Any deficiency
of security
to be made
good, or
license for-
feited.

54. Where the license of a company is suspended or cancelled under the provisions of subsection 8 of section 47 or of section 53 it may be revived if the company makes good the deposit or the deficiency as the case may be to the satisfaction of the Minister. 2 Geo. V. c. 33, s. 54.

Revival of
suspended
license.

55. So long as the conditions of this Act are satisfied and no notice of any final judgment against the company or order for its winding up or the distribution of its assets is given to the Minister the company shall be entitled to receive the interest upon the securities forming the deposit. 2 Geo. V. c. 33, s. 55.

Interest on
securities
to be paid
to company.

56.—(1) Where an undisputed claim arising from loss insured against in Ontario remains unpaid for sixty days after having become payable, or a disputed claim after final

Licenses
forfeited
by non-pay-
ment of
claims.

judgment in Ontario and tender of a valid discharge remains unpaid, and written notice of such non-payment has been given to the Superintendent, the license of the company may be suspended or cancelled.

Revivor of
license
after default.

(2) In case of suspension under this section the license may be revived, and the company may again transact business if within sixty days after notice to the Superintendent of the company's default such claim or judgment is satisfied.

Administra-
tion of
deposit.

(3) Where the company fails to pay any such undisputed claim within sixty days after it has become payable, or to pay any such judgment after tender of a valid discharge, the company's deposit may be administered in the Supreme Court.

Notice of
application
for adminis-
tration.

(4) At least ten days' notice of the application for administration, stating the ground of it, shall be served upon the company and upon the Superintendent.

When notice
may be
given.

(5) Where the claim accrues on the occurrence of any event and is by the terms of the contract of insurance payable on proof of such occurrence, without any stipulated delay, the notice shall not be given until after the lapse of sixty days from the time when the claim became payable. 2 Geo. V. c. 33, s. 56.

Government
deposit
security
for certain
contracts
only.

57.—(1) The deposit shall be subject to administration only in respect of contracts of insurance which have for their subject property in Ontario, or the life, safety, health, fidelity or insurable interest of a resident of Ontario, or where the contract makes the payment thereunder primarily payable to a resident of Ontario.

Application
of deposits
in case of
administra-
tion.

(2) In case of administration the whole deposit, after the costs of administration have been provided for, shall be assets for the holders of such contracts whose rights as among themselves shall be determined as provided by subsections 4 to 6 of section 219. 2 Geo. V. c. 33, s. 57.

Effect of
order upon
registration.

58. When an order for administration is made the company shall thereby become unregistered. 2 Geo. V. c. 33, s. 58.

In case of
Provincial
company.

59. In the case of a Provincial company, the winding up shall be deemed to have commenced under section 212 from the date of the administration order. 2 Geo. V. c. 33, s. 59.

In case of
extra Pro-
vincial
company.

60. In the case of a company not being a Provincial company, upon the application of any person interested in the administration or of the Superintendent, the Master shall appoint an administrator, and in respect of the administration the Master shall have the like powers and duties as a receiver under this Act. 2 Geo. V. c. 33, s. 60.

61.—(1) A company which has ceased to transact business in Ontario and desires to obtain a return of its deposit may give written notice to that effect to the Superintendent, and shall publish in the *Ontario Gazette* a notice that it has applied to the Lieutenant-Governor in Council for the return of its deposit, calling upon all claimants, contingent or actual, who object to the return to file their objections with the Superintendent on or before a day named in the notice which shall not be less than three months after the first publication of it.

Return of
deposit on
ceasing to do
business.

(2) Upon giving the notice to the Superintendent the company shall file with him a list of all its outstanding contracts of insurance including contracts in respect of which claims have accrued.

Filing list
of outstand-
ing contracts.

(3) After the day named in the notice, if the Minister is satisfied that the company has obtained a discharge of all such outstanding contracts, the Lieutenant-Governor in Council may direct that the deposit be returned.

Return of
deposit on
proof of dis-
charge of
contracts.

(4) If the Minister is not satisfied that all such contracts have been discharged the Lieutenant-Governor in Council may direct that a sufficient amount be retained to meet the contracts unprovided for and that the remainder of the deposit be returned, and thereafter from time to time as such contracts lapse or proof is adduced that they have been satisfied further return of the deposit may be directed by the Lieutenant-Governor in Council. 2 Geo. V. c. 33, s. 61.

Retaining
balance to
meet undis-
charged
contracts.

LICENSING OF INSURANCE COMPANIES.

62.—(1) All insurance companies other than those mentioned in sections 69 to 75, before being registered shall obtain a license from the Minister.

License,
when re-
quired.

(2) Before applying for license the company shall furnish to the Superintendent satisfactory evidence:—

Application,
proof re-
quired of
subscription
and payment.

(a) Where the company undertakes fire, or fire and inland marine, or accident, or life, or life and accident, or sickness and accident insurance, or undertakes guarantee or suretyship insurance, that of the capital stock not less than \$300,000 has been *bona fide* subscribed, and that \$30,000 has been paid thereon;

(b) Where the company undertakes live stock insurance with or without insurance on vehicles, that of the capital stock not less than \$150,000 has been *bona fide* subscribed, and that \$15,000 has been paid thereon;

(c) Where the company undertakes bicycle or vehicle insurance, or plate glass insurance, that of the

capital stock not less than \$12,000 has been *bona fide* subscribed, and that \$6,000 has been paid thereon;

(d) Where the company undertakes insurance other than as mentioned in the preceding paragraphs against any loss of or damage to property from accidental causes including boiler or other explosions, or by reason of theft, housebreaking or burglary, that of the capital stock not less than \$60,000 has been *bona fide* subscribed, and that \$11,000 has been paid thereon;

(e) That the amount paid on the subscribed stock has been actually and *bona fide* paid by the respective persons by whom the stock was subscribed;

(f) That the payments have been made into a chartered bank of Canada to the credit of a named trustee for the company approved by the Superintendent at some office of such bank in Ontario.

Documents
to be filed.

(3) Every applicant for license shall file with the Superintendent the documents mentioned in sections 9 and 21, and also the documents required of an applicant for registry; and shall before being licensed make the prescribed deposit.

When license
shall issue.

(4) As soon as the company has made the prescribed deposit, and has otherwise complied with the requirements of this Act, the Minister may issue the license.

Form of
license.

(5) The license shall be in such form as may be determined by the Minister, and shall specify the business to be carried on by the company; and shall expire on the thirtieth day of June in each year, but shall be renewable from year to year.

Supplementary
licenses.

(6) Where a company desires to extend its business to some other branch of insurance, and has complied with the law in respect of additional deposit and otherwise, the Minister may on the report of the Superintendent issue a supplementary license authorizing the company to undertake such other branch of insurance business.

Record of
licenses.

(7) A record of the licenses and supplementary licenses shall be kept in the office of the Superintendent. 2 Geo. V. c. 33, s. 62.

Supplementary
licenses.

63. The provisions herein enacted as to the continuance, renewal, suspension and cancellation of licenses shall apply to supplementary licenses. 2 Geo. V. c. 33, s. 63.

No license
for
both fire
and life
insurance.

64. A license shall not be granted to a company for the transaction of both fire and life insurance. 2 Geo. V. c. 33, s. 64.

65. A company incorporated elsewhere than in Canada shall not be licensed unless it shows to the satisfaction of the Minister that it has carried on successfully for a period of at least five years the business for which a license is applied for. 2 Geo. V. c. 33, s. 65.

Foreign company.
Proof required before license.

REGISTRATION OF INSURANCE CORPORATIONS.

Registers.

66. There shall be kept in the Department,

Two registers to be kept.

(a) A Register to be called "The Insurance Company Register," in which shall be registered the corporations mentioned in sections 68, 69, 70 and 71;

Insurance company register.

(b) A Register to be called "The Friendly Society Register," in which shall be registered the friendly societies authorized by certificate to undertake insurance contracts. 2 Geo. V. c. 33, s. 66.

Friendly society register.

67. The duty of determining and distinguishing those corporations which are required to be registered and are entitled to registry, and of granting registry, shall devolve upon the Superintendent or Registrar subject to appeal as hereinafter provided. 2 Geo. V. c. 33, s. 67; 3-4 Geo. V. c. 35, s. 4.

Powers and duties of the Superintendent.

Insurance Company Register: What Corporations May be Registered.

68.—(1) A company shall, on the issue or the renewal of its license, be registered on the Insurance Company Register, without application and without additional charge and before delivery of the license, and the fact of such registration shall be indorsed thereon.

Right of licensees to registration.

(2) Suspension, cancellation or non-renewal of the license shall, *ipso facto*, operate as a suspension or cancellation of registry.

How suspended or cancelled.

(3) For the purposes of this section the license shall be deemed to be subsisting for thirty days after its expiry by effluxion of time. 2 Geo. V. c. 33, s. 68.

Days of grace.

69.—(1) A company licensed by the Dominion of Canada, upon application and upon proof that its license has been issued, may be registered on the Insurance Company Register.

Dominion licensees, registration of.

(2) Subsection 1 shall not apply to a company which has not made and kept up the deposit required by *The Insurance Act, 1910 (Canada)*.

When subsection 1 not to apply.

(3) Where a company registered under the provisions of this section contravenes any of the provisions of *The Insurance Act, 1910 (Canada)*, for which its license may under that Act be suspended or cancelled, such company shall be liable to have its registry under this Act suspended or cancelled.

Liability to cancellation or suspension of registry.

Suspension
or cancella-
tion by Do-
minion,
effect of.

(4) Suspension or cancellation by the Dominion of Canada of the license of any such company shall, *ipso facto*, operate as a suspension or cancellation of registry under this Act.

Reinstatement.

(5) When any such suspension is withdrawn the Superintendent may reinstate the company on the register. 2 Geo. V. c. 33, s. 69.

Registry of
marine
insurance
companies,
etc.

70. Companies transacting inland or ocean marine insurance, companies not transacting insurance business in Ontario but investing surplus funds in Ontario and companies mentioned in section 102 of *The Insurance Act, 1910* (Canada) may be admitted to registry. 2 Geo. V. c. 33, s. 70.

Lloyds, 34
and 35 Vic.
(Imp.) c. 21.

71. Upon due application of any underwriter of the society known as Lloyds, incorporated by the Imperial Statute, *Lloyds Act, 1871*, or upon due application of any such underwriter's broker or broker's agent, such underwriter, broker or agent may be admitted to registry for the undertaking and transaction of insurance, other than life insurance, and upon such terms and conditions as the Minister may deem expedient. 2 Geo. V. c. 33, s. 71.

Friendly Society Registers: What Corporations May be Registered.

What socie-
ties may be
registered.

72. In addition to friendly societies registered as such at the commencement of this Act, the following shall be admissible to registry on the Friendly Society Register:

Societies :
under sections
36, 37, 39, 40.

(a) A society incorporated under the provisions of sections 36, 37, 39 or 40;

Under a
Dominion
Act.

(b) A corporation not otherwise provided for in this Act which has by or under the authority of an Act of the Parliament of Canada an insurance and provident society or association, or an insurance or guarantee fund in connection with the corporation;

Trade union
insurance
benefit
societies.

(c) A trade union in Ontario which, under the authority of its incorporating Act or charter, has an insurance or benefit fund for the benefit of its own members exclusively;

Insurance
gratuity
fund created
by an Act
of Canada.

(d) A corporation which under the authority of an Act of the Parliament of Canada has created a fund for paying a gratuity on the happening of death, sickness, infirmity, casualty, accident, disability or any change of physical or mental condition;

Civil ser-
vice associa-
tions.

(e) An association of the civil servants or employees of the Dominion of Canada incorporated by or under the authority of an Act of the Parliament of Canada. 2 Geo. V. c. 33, s. 72.

73.—(1) A friendly society incorporated in another Province of Canada which authorizes friendly societies of Ontario to transact business within its limits on conditions similar to those set forth in this Act may be admitted to registry.

Societies incorporated by other Provinces.

(2) No such society shall be admissible to registry:

Cases in which such societies not admissible to registry.

- (a) Unless for five years next preceding its application for registry it has been continuously in actual operation as a solvent corporation of a Province of Canada under the law of which it was incorporated; or
- (b) If it undertakes insurance or insurance benefit contracts with persons other than its own members; or
- (c) If it insures or indemnifies against contingencies other than sickness, disability, or death, or funeral expenses, or if the sum or sums insured on the life of any one person exceed in all \$3,000; or
- (d) If it undertakes endowment insurance, or other endowment contracts, or annuities upon lives, or bond or tontine, or semi-tontine, or marriage aid contracts; or
- (e) If it has upon its books less than five hundred members in good standing; or
- (f) If it is in effect the property of its officers or collectors, or of any other person for his own benefit, or is conducted as a mercantile or business enterprise, or for the purpose of mercantile profit, or if its funds are under the control of persons or officers appointed for life and not under that of the assured; or
- (g) Unless the society provides for its contracts upon lives at least to the extent of collecting from its members premiums not less than those set out in Schedule A, and such further sum as is sufficient to provide for the expenses of management.

(3) On proof that the society is entitled to registry, and on production of the certificate of registry of the proper officer of its own Province, if registry is required by the law of that Province, the society shall be entitled to registry upon making the prescribed deposit. 2 Geo. V. c. 33, s. 73.

Proofs for registry.

74.—(1) Where two or more lodges or branches of a society, though separately incorporated, are under the financial or administrative control of a central governing body in Ontario, or a duly authorized Provincial representative of

Central body for Ontario or representative may be dealt with.

the society, such governing body if incorporated or such Provincial representative of the society may, if the Registrar thinks proper be dealt with as the society.

When central for Ontario incorporated.

(2) In the case of a friendly society incorporated elsewhere than in Ontario the central governing or controlling body in Ontario if incorporated by virtue of the law of Ontario may if the Registrar thinks proper be dealt with as the society. 2 Geo. V. c. 33, s. 74.

Trades unions. Exemptions in certain cases.

75. Where a *bona fide* trade union provides by its constitution, by-laws or rules for the assistance, relief or support of its members, the Registrar may, by writing, under his hand and the seal of his office, declare the organization exempt from the operation of this Act; and such declaration shall remain in force until in like manner revoked. 2 Geo. V. c. 33, s. 75.

Reservations.

76.—(1) The following shall not be entitled to register as a friendly society:—

Corporations requiring insurance licenses.

(a) Any corporation mentioned in sections 69, 70, 71, or licensed or required by this Act to be licensed;

Or distributing charity or gratuities only.

(b) Any corporation, except those mentioned in clause (d) of section 72, having charge of, or managing, or distributing charity, or gratuities, or donations only;

Or undertaking other than certain contracts.

(c) A corporation which undertakes or offers to undertake contracts of insurance other than with its own members exclusively, or for more than \$3,000 in respect of any one member, or any contracts of insurance with its members other than

(i) Insurance of the person; or

(ii) Contracts for the payment of mortuary or funeral benefits; or

(iii) Old age insurance;

Or where the insured number less than 75; or insurance fund is used for gain, etc.

(d) A corporation in which the persons insured number less than seventy-five, or in which the insurance fund is used for the purposes of a mercantile or business enterprise, or for mercantile profit, or a society formed on the lodge system, the insurance fund of which is held other than as a trust fund for the members insured;

Society where control of insurance fund is not in members or their representatives elected for not more than three years

(e) A society in which the persons insured do not exercise, either directly or through representatives elected for a term not exceeding three years, effective control over the insurance fund of the society; or in which the officers or other persons having the disposition, control or possession of the insurance fund are elected or appointed for a longer period than three years;

- (f) Any corporation which undertakes contracts of insurance but is not formed exclusively for that purpose and which does not for the purposes of such contracts keep distinct and separate funds, securities, books and vouchers.

Corporation not formed exclusively for insurance.

(2) Clause (c) shall not apply to contracts guaranteeing the fidelity of officers, servants, or employees of the branches or subdivisions of the corporation, and shall not disentitle to registry a friendly society which before the eleventh day of March, 1890, was *bona fide* transacting exclusively with its members endowment insurance in Ontario, and which has continued so to do up to the date of application for registry. 2 Geo. V. c. 33, s. 76.

Proviso.

77. Where, because of a provision in any of its rules, a society otherwise entitled to registry ought not, in the opinion of the Registrar, to be registered, it shall not be entitled to registry, until it has repealed or amended such rules in accordance with the direction of the Registrar. 2 Geo. V. c. 33, s. 77.

When rules must be amended.

78. A society incorporated under any Act of this Legislature shall not be entitled to registry unless its head office is located and maintained in Ontario and the secretary and treasurer are *bona fide* resident in Ontario. 2 Geo. V. c. 33, s. 78.

Head offices of Ontario societies.

Proceedings to Register: Duration of Registry.

79. Application for initial registry shall be made according to a form to be supplied by the Superintendent on request, and the applicant shall deliver to the Superintendent at his office the application duly completed, together with such evidence as the form by its terms requires, and shall furnish such additional information, material and evidence, and if the Superintendent deems it necessary shall give such public notice of the application as he may direct. 2 Geo. V. c. 33, s. 79.

Application for registry.

80. The applicant, if not a corporation mentioned in sections 70 or 71, shall also deliver to the Superintendent a statement in the form required by him of the financial condition and affairs of the applicant on the 31st day of December then next preceding, or up to its usual balancing day, if such day is not more than twelve months before the delivery of the statement, and such statement shall be signed by the applicants' president and secretary or other proper officers, and shall be verified by their oath. 2 Geo. V. c. 33, s. 80.

In certain cases financial statement to accompany application.

81.—(1) A corporation having its head office elsewhere than in Ontario shall, with its application for initial registry, file with the Superintendent a power of attorney executed in

Extra-provincial corporation. Power of attorney.

duplicate, appointing a resident of Ontario as its attorney or agent to receive service of notices and of process in all actions and proceedings against the corporation in Ontario, and declaring at what place in Ontario the head office or chief agency is located at which service may be effected.

Services on agent to be good service.

(2) Service upon such attorney or agent or upon an officer or clerk at such head office or chief agency shall be deemed service upon the corporation.

New power of attorney to be filed on change of attorney or head office.

(3) Upon every change of attorney or agent or of the location of the head office or chief agency in Ontario, or if from any cause the power of attorney filed becomes invalid or ineffectual, notice thereof shall forthwith be given to the Superintendent and a new power of attorney filed in like manner and form. 2 Geo. V. c. 33, s. 81.

Recording registry; entries on register.

82.—(1) The Superintendent shall cause to be entered on the proper register the name of every corporation admitted to registry, the date of registry, the term for which the registry is to endure, the place where the head office is located, the name and address of the chief agent, and the class of insurance for which the corporation is registered.

Entry of suspension, revivor, cancellation, etc.

(2) If during the term the registry is suspended, revived, revoked, or cancelled the date of and authority for the suspension, revivor, revocation or cancellation shall be entered on the register.

Contents of certificates of registry.

(3) The Superintendent shall issue under his hand and the seal of his office a certificate of registry setting forth that the corporation is registered for the term and for the purposes stated in the certificate.

Commencement and end of term of registry.

(4) The term shall begin on the date of registry and shall end not later than the 30th day of June following, but in the case of the corporations mentioned in sections 69, 70 and 71 the term of registry shall end not later than the 30th day of April following the date of registry. 2 Geo. V. c. 33, s. 82.

Interim certificate.

83. Notwithstanding failure to comply with the provisions of this Act within the prescribed time the Superintendent may, upon payment of the prescribed fee, grant an interim certificate of registry or extend the currency of a subsisting certificate. 2 Geo. V. c. 33, s. 83.

Proof of Registry and of Other Matters: Notice Under the Act.

Evidence of registry; semi-annual list to be published.

84.—(1) The Superintendent shall cause to be published in the *Ontario Gazette*, in July of each year, a list of the corporations which are registered at the date of the list; and shall cause notice of the registry of a corporation not there-

tofore registered and notice of suspension or cancellation or revivor of registry to be given by publication in the *Ontario Gazette*.

(2) A certificate under the hand and seal of office of the Superintendent that on a stated day the corporation or person mentioned therein was or was not registered under this Act, or that any corporation or person was originally admitted to registry, or that the registry of any corporation or person was renewed, suspended, revived, revoked, or cancelled on a stated day shall be *prima facie* evidence of the facts stated in the certificate. Certificate of Superintendent as evidence as to registry, etc.

(3) A certificate of the filing of any document by this or by any former Insurance Act required to be filed in the office of the Provincial Registrar or of the Superintendent or Deputy Superintendent shall be *prima facie* evidence of the filing if signed or purporting to be signed by the Deputy or Assistant Provincial Registrar or by the acting Deputy or Assistant or by the Superintendent or Deputy Superintendent as the case may be. And of other officers.

(4) The books, accounts and documents of a corporation and the entries in the books of its officers or receiver or liquidator shall be *prima facie* evidence of the matters to which they relate as against the corporation, or any of its branches or lodges, and as between any of the branches or lodges, or their respective members, and as between contributories or alleged contributories, and in a winding up as between an alleged debtor or contributory and the corporation. 2 Geo. V. c. 33, s. 84. Books, etc., of corporation as evidence.

85.—(1) Subject to Statutory condition 7, delivery of any written notice to a corporation for any of the purposes of this Act, where the mode thereof is not otherwise expressly provided, may be by letter delivered at the chief office of the corporation in Ontario, or sent by registered post addressed to the corporation, its manager or agent at such chief office, or in any other manner to an authorized agent of the corporation. How notice may be given to corporation.

(2) Subject to Statutory condition 15, any notice given by a corporation for any of the purposes of this Act, when the mode thereof is not otherwise expressly provided, may be given in the case of a member or person insured by mailing it to his post office address given in his original application for insurance or otherwise notified in writing to the corporation; and in the case of a shareholder by mailing the notice to his post office address as appearing in the register of shareholders. 2 Geo. V. c. 33, s. 85. Notice by corporation.

86. Any oath required by this Act to be taken may be administered and certified to by the Superintendent or Deputy Superintendent or by any person authorized to administer oaths in Ontario. 2 Geo. V. c. 33, s. 86. Oaths.

SUSPENSION OR CANCELLATION OF REGISTRY: BRINGING ACTIONS:
APPEALS FROM SUPERINTENDENT.

Cancellation
of registry.

87.—(1) Upon proof of the happening of any of the following events and after notice to the corporation where the Superintendent deems notice necessary or proper he may cancel the registry of the corporation:—

- (a) The repeal or the expiry without renewal of its charter, instrument of association, or deed of settlement, or of its Act of incorporation; or
- (b) The revocation of its corporate powers; or
- (c) The cancellation, or the expiry without renewal of the license or other document of authority by which the corporation was authorized to exercise its corporate powers for the transaction of insurance; or
- (d) The passing of a resolution by the corporation for its winding up; or
- (e) The making of an order by any Court for the winding up of the corporation.

Suspension
of registry.

(2) Upon proof of the happening of any of the following events and after notice to the corporation, where the Superintendent deems notice necessary or proper, he may suspend the registry of the corporation:—

- (a) The suspension of the license or other document of authority by which the corporation was authorized to exercise its corporate powers for the transaction of insurance; or
- (b) The suspension of the corporate powers of the corporation. 2 Geo. V. c. 33, s. 87.

Suspension or
cancellation
for fraud,
insolvency,
etc.

88. Upon proof that registry or a certificate of registry was obtained by fraud or mistake, or that a corporation exists or is using its corporate powers for any fraudulent or unlawful purpose, is insolvent or is on the eve of insolvency, or has wilfully contravened any of the provisions of this Act, or has ceased to exist, the registry of the corporation may, after notice to the corporation, where the Superintendent deems notice necessary or proper, be suspended or cancelled, subject to appeal as provided in section 92. 2 Geo. V. c. 33, s. 88.

When action
may be
brought
under
contract.

89.—(1) No action shall be brought for the recovery of money payable under a contract of insurance until the expiration of sixty days after proof, in accordance with the provisions of the contract, of the loss or of the happening of the event upon which the insurance money is to become payable or such shorter period as may be prescribed by any enact-

ment regulating the contracts of the corporation or as may be fixed by the contract of insurance.

(2) After such sixty days or shorter period any person entitled as beneficiary or by assignment or other derivative title to the insurance money, and having the right to receive the same and to give an effectual discharge therefor may sue for the same in his own name, any rule, stipulation or condition to the contrary notwithstanding. Beneficiary, assignee, etc., of contract may sue in his own name.

(3) If a corporation disputes a claim it shall give notice in writing to that effect to the claimant and to the Superintendent within such period. 2 Geo. V. c. 33, s. 89. Notice of dispute.

90.—(1) If notice of dispute is not given and the claim is not paid within such period, or if the claim is disputed and judgment is recovered thereon, and is not satisfied, the Superintendent, upon proof of non-payment, may suspend the registry of the corporation. Suspension of registry for non-payment, etc.

(2) If within sixty days after notice of the suspension the corporation shall have paid all undisputed claims and final judgments in full the Superintendent, upon proof of such payment, may revive the registry of the corporation and issue his certificate of such revivor, and unless such proof is furnished before the expiration of such period he shall cancel the registry of the corporation. 2 Geo. V. c. 33, s. 90. Revivor.

91.—(1) Every decision of the Superintendent refusing, suspending, cancelling, or reviving registry shall be in writing and notice thereof shall be forthwith given to the corporation. Decision of the Superintendent.

(2) The corporation or any person interested shall be entitled, upon payment of the prescribed fee, to a certified copy of the decision. Certified copy of.

(3) The evidence and proceedings in any matter before the Superintendent may be reported by a stenographer who has taken an oath before the Superintendent to faithfully report the same. 2 Geo. V. c. 33, s. 91. Stenographic report of evidence.

92.—(1) The corporation or any person who deems himself aggrieved by a decision of the Superintendent may appeal therefrom to a Divisional Court. Appeals.

(2) The appeal shall be set down for argument at the first sittings of a Divisional Court which commences after the expiration of 30 days from the decision complained of. Time for setting down.

(3) The practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a Judge of the Supreme Court, in an action. 2 Geo. V. c. 33, s. 92. Practice and procedure thereon.

No registry where name misleading or objectionable.

93. Before a license is issued or a company is admitted to registry the Superintendent shall be satisfied that the corporate name of the company is not that of any other known company incorporated or unincorporated, or any name liable to be confounded therewith or otherwise on public grounds objectionable. 2 Geo. V. c. 33, s. 93.

RIGHT OF SUPERINTENDENT TO ACCESS TO BOOKS, ETC.

Superintendent to have access to corporation's books, etc.

94. The Superintendent, or any person authorized under his hand and seal of office, shall at all reasonable times have access to all such books, securities, and documents of a corporation as relate to its contracts of insurance, and any officer or person in charge, possession, custody or control of such books, securities or documents who refuses or neglects to afford such access shall be guilty of an offence against this Act and the corporation shall be liable to have its registry suspended; and, in case of continued refusal or neglect to afford such access, shall be liable to have its registry cancelled. 2 Geo. V. c. 33, s. 94.

SPECIAL AUDIT.

Special audit in case of fraud, illegal acts, or default of audit.

95.—(1) Upon proof to the satisfaction of the Superintendent that the accounts of a corporation have been materially and wilfully falsified, or that for eighteen consecutive months there has been no *bona fide* audit of its books and accounts, or if there is filed in the office of the Superintendent a requisition for audit bearing the signatures, addresses and occupations of at least twenty-five members or shareholders of the corporation, or of claimants or persons entitled to claim or having insurable interests under contracts of the corporation, and alleging in a sufficiently particular manner to the satisfaction of the Superintendent specific fraudulent or illegal acts, or the repudiation of contracts or insolvency, the Superintendent may appoint one or more accountants who shall, under his direction, make a special audit of the books and accounts and report thereon in writing verified upon oath to the Superintendent.

Security for costs of special audit.

(2) Where an audit is requested the persons requesting it shall, with their requisition, deposit with the Superintendent security for the costs of the audit in a sum not exceeding \$300, and where the facts alleged in the requisition appear to the Superintendent to have been partly or wholly disproved by the audit he may pay the costs thereof partly or wholly out of the deposit.

Production of books, etc.

(3) The corporation, its officers and servants shall facilitate the making of such special audit so far as it is in their power, and shall produce for the inspection and examination by the person so appointed such books, securities and documents as he may require.

(4) Subject to the provisions of subsection 2 the expense of such special audit shall be borne by the corporation, and the auditor's account, when approved in writing by the Superintendent, shall be paid by the corporation forthwith. Expense of special audit.

(5) Subject to appeal as hereinafter provided the Superintendent, upon proof of the fact, may cancel or suspend the registry of a corporation which fails to comply with the provisions of section 105, or refuses to permit an audit provided for by this Act to be made, or obstructs an auditor in the performance of his duties. 2 Geo. V. c. 33, s. 95. When corporation resists or obstructs audit.

96. Every trustee, director, officer, manager, agent, collector, auditor or employee of a corporation, or of any of its branches or lodges, who knowingly makes or publishes, or assists in making or publishing, any wilfully false statement of its financial affairs, or who makes or assists in making any untrue entry in any book of record or account, or who refuses or neglects to make any proper entry therein, or to exhibit the books, vouchers, securities and documents, or to allow the same to be inspected or audited either for the general purposes of the corporation or for the purposes of this Act, and extracts to be taken therefrom, shall be guilty of an offence, and upon summary conviction shall be liable to imprisonment for a term not exceeding twelve months. 2 Geo. V. c. 33, s. 96. Untrue entries, etc.

97.—(1) If the report made by the special auditor appears to the Superintendent to disclose any fraudulent or illegal act on the part of the corporation, or a repudiation of its contracts or insolvency, the Superintendent shall notify the corporation and furnish it with a copy of the report, and shall allow two weeks for a statement in reply to be filed with him. Report of special auditor.

(2) Upon consideration of the report and of the statement in reply, and of such further evidence as he may require, the Superintendent may, subject to appeal as hereinbefore provided, suspend or cancel the registry of the corporation and shall give his decision in writing. 2 Geo. V. c. 33, s. 97. Superintendent's decision.

UNREGISTERED CORPORATIONS AND ILLEGAL CONTRACTS.

98.—(1) No insurance other than contracts of guaranty undertaken by a company registered under *The Loan and Trust Corporations Act* shall be transacted or undertaken in Ontario except by a corporation duly registered under this Act, and no corporation shall transact or undertake in Ontario any business not specified in its certificate of registry. No unregistered corporation to undertake insurance. Rev. Stat. c. 184.

(2) Subsection 1 shall not apply to a superannuation or insurance or annuity fund, managed or controlled by the Government of Canada or of Ontario, for the benefit of the civil service thereof. Civil service fund of Canada

What deemed
to be
undertaking
insurance.

(3) Any person who sets up or causes to be set up any sign containing the name of a corporation, or who distributes or publishes or causes to be distributed or published any proposal, circular, card, advertisement, printed form or like document in the name of a corporation, or who makes, or causes to be made, any written or oral solicitation on a corporation's behalf, or who collects or takes, or causes to be collected or taken, any premium of insurance on a corporation's behalf, shall be deemed to offer to undertake or effect a contract of insurance within the meaning of this section. 2 Geo. V. c. 33, s. 98 (1-3).

Printing of
words "As-
sessment
System."

(4) Every application, contract, or instrument, and every circular, advertisement or publication soliciting insurance of the person, issued or used in Ontario for the purposes of assessment insurance, shall bear the words "Assessment System" printed or stamped in large type at the head thereof. 2 Geo. V. c. 33, s. 98 (4); 3-4 Geo. V. c. 35, s. 5.

Statements
as to
capital.

(5) Where any advertisement, letter head, account or other document issued, published or circulated by a registered corporation or by any of its officers, agents or employees, purports to state the capital of the corporation, it shall state separately,

- (a) The authorized capital;
- (b) The capital actually and in good faith subscribed;
- (c) The capital actually and in good faith paid up.

Penalty.

(6) Every person who in contravention of subsection 1 undertakes or effects or agrees or offers to undertake or effect any contract of insurance or who contravenes subsection 4 or subsection 5 shall incur a penalty of not less than \$20 nor more than \$200 recoverable under *The Ontario Summary Convictions Act*; and in case of a second or any subsequent conviction shall be liable to imprisonment for any term not exceeding six months.

Rev. Stat. c. 90.

Burden of
proof.

(7) The burden of proving registry shall be upon the corporation or person charged.

Application
of fines.

(8) One-half of any fine imposed under the authority of this section shall, when received, belong to His Majesty and the other half to the prosecutor. 2 Geo. V. c. 33, s. 98 (5-8).

Offence by
corporation
to be an
offence by
officers
thereof; con-
tinued de-
fault to con-
stitute new
offence.

99. Every offence against this Act committed by a corporation or by a branch or lodge of a corporation shall be deemed to have been also committed by every officer of the same who by virtue of his office is bound to fulfil any duty whereof such offence is a breach, or if there is no such officer, then by every member of the Committee of Management of the same unless it is proved that he attempted to prevent the commission of such offence, and every default under this Act which is an offence if continued shall constitute a new offence in each week during which such default continues. 2 Geo. V. c. 33, s. 99.

BROKERS' LICENSES FOR BUSINESS WITH UNREGISTERED FOREIGN CORPORATIONS.

100.—(1) Where the Minister is of opinion that insurance or sufficient insurance of property cannot be obtained with registered insurers at ordinary or reasonable rates of premium he may from time to time, by license made for a term not in any case extending beyond the next ensuing 30th day of June, authorize an insurance broker named in such license, hereinafter in this section called the licensee, to effect such insurance with insurers approved by the Minister not registered under this Act, and not transacting business in Ontario other than such as is transacted under the authority of a license issued under this section.

License in certain cases for effecting insurance with unregistered insurers.

(2) The licensee before transacting business under the license shall furnish to the Superintendent security to his satisfaction in the sum of not less than \$5,000 that he will faithfully comply with all the requirements of this Act.

Security to be given by licensee.

(3) The license shall in respect of insurance effected thereunder exempt the licensee, the insurer and such insurance from the operation of section 98.

License exempts from penalties.

(4) The Minister may at any time require a licensee to increase the amount of the security, and notice of such requirement may be sent by registered post addressed to the licensee at the address stated in the license, and if the licensee fails to comply with the requirement within eight weeks after the mailing of such notice the license shall *ipso facto* be cancelled.

Additional deposit to be made on notice.

(5) For non-compliance by the licensee with any of the requirements of this Act or for any other cause shown to the satisfaction of the Minister he may at any time, by notice in writing, which may be given as provided by the next preceding subsection, suspend or cancel the license.

Suspension or cancellation of license for cause.

(6) The licensee shall, in the case of every insurance to be effected under this section, obtain from the person applying for such insurance a dated statement, signed by the applicant, describing the property to be insured, its location and the amount of insurance desired; also stating that there is no insurer in Ontario registered for the transaction of that kind of insurance; or that application was previously made for such insurance to named insurers registered under *The Ontario Insurance Act* and that a premium at the rate stated in the application per \$100 for a specified term was offered to them, but that no insurance or only a stated part of the insurance so applied for was granted by such insurers.

Application for insurance under this section.

(7) Every licensee shall keep a separate account of all insurances effected by him under his license in a book or books in the form prescribed by the Superintendent.

Separate account to be kept of insurances.

Books, applications, etc., to be open to inspection.

(8) Such book and the applications and statements mentioned in subsection 6 shall at all times be open to the Superintendent or to any officer of the Department.

Monthly returns to be made by licensee.

(9) Within ten days after the end of each calendar month every licensee shall make to the Superintendent a return in the form and manner by him prescribed of the particulars of all insurances effected under this section by the licensee during such month; and such return shall be verified by the oath of the licensee.

Premiums received by licensee to be reported to Department.

(10) In respect of all premiums on insurance effected under a license the licensee shall pay to the Department such taxes as would be payable if such premiums had been received by a registered insurance company; and the licensee shall, in respect of such premiums, report to the Superintendent from time to time as by him required.

Release of deposit.

(11) On it being shown to the satisfaction of the Minister that all insurances effected under this section are no longer in force, or have been reinsured, the licensee shall be entitled to a release or cancellation of his security.

License fee.

(12) For each license issued under this section a fee of \$25 shall be payable to the Department, but where the term for which the license is to be issued does not exceed six months the fee shall be \$12.50. 2 Geo. V. c. 33, s. 100.

REINSURANCE BY REGISTERED CORPORATION.

Re-insurance permitted with certain unregistered persons.

101. Nothing in this Act shall prevent a registered insurance company, which has lawfully effected a contract of insurance upon property in Ontario, from re-insuring the risk or any portion thereof with any insurer transacting business out of Ontario and not registered under this Act. 2 Geo. V. c. 33, s. 101.

BOOKS: PERIODICAL AUDIT: INVESTMENTS: VALUATION OF LIABILITIES: FINANCIAL STATEMENTS: INVESTMENT OF FUNDS.

(For special audit see section 95.)

Books as may be directed by Superintendent.

102.—(1) Every registered corporation except those mentioned in subsection 1 of section 69 shall keep such a classification of its contracts, and such registers and books of account as may be prescribed by the Superintendent; and if at any time it appears to him that such books are not kept in such a way as to show properly the affairs and standing of the corporation he may appoint an accountant to audit such books under his direction, and to give such instructions as will enable the officers of the corporation to keep them correctly.

Rectification when necessary.

Expense of audit.

(2) The expense shall be borne by the corporation and shall not exceed \$5 per day and necessary travelling ex-

penses, and the account shall, when approved under the hand of the Superintendent, be paid by the corporation forthwith. 2 Geo. V. c. 33, s. 102.

103.—(1) Where the corporation has a share capital the books required by the next preceding section shall include a stock register in which transfers of shares shall be accurately registered, and which shall at all reasonable times be open to examination by any shareholder and the Superintendent. Transfer register.

(2) The entries in such register shall include the following particulars: the number of shares transferred, the amount paid up on them, the names and addresses of the transferor and the transferee, the date of the transfer and the date of confirmation by the directors. 2 Geo. V. c. 33, s. 103. Contents.

104. Insurance companies which are required to make a deposit shall cause to be kept a policy register in which all policies issued by the corporation shall be entered, distinguishing those for which the deposit is answerable under section 57. 2 Geo. V. c. 33, s. 104. Separate record for contracts secured by deposit.

105.—(1) The officers of every Provincial corporation shall at least once in every year have a *bona fide* audit of its books of record and account made by at least two competent auditors. Annual audit.

(2) Every auditor shall be a qualified accountant, not holding or having held within two years prior to his becoming auditor any other office or employment under the corporation. Auditors and qualification.

(3) The auditors shall be elected and their remuneration determined at a general meeting. Remuneration.

(4) An auditor shall hold office for not more than two years but shall be eligible to reappointment. Term of office.

(5) The directors or executive officers may, by a vote of two-thirds of the members present, suspend an auditor for incapacity, misconduct or negligence, such suspension to remain in force until the next general meeting. Suspension of auditor.

(6) If the office of auditor becomes vacant between general meetings the directors or executive officers may fill the vacancy until the next general meeting. 2 Geo. V. c. 33, s. 105. Vacancy of office of auditor.

106.—(1) Every Provincial corporation shall furnish to each shareholder or member at least two weeks before its annual meeting a summary statement in a form approved by the Superintendent, showing as the result of such audit the corporation's assets, liabilities, receipts and expenditures, and the state of its insurance funds as they appear in the statement mentioned in section 108, and a copy of such sum- Summary statement.

mary statement signed and certified by the president and by the manager or secretary and by the auditors shall be filed in the office of the Superintendent with the statement required by section 108. 2 Geo. V. c. 33, s. 106 (1); 3-4 Geo. V. c. 35, s. 6.

Statement
in official
journal of
friendly
society.

(2) Where a copy of the official newspaper or journal of a friendly society containing the statement is sent to a member the statement shall be deemed to be furnished to him within the meaning of subsection 1.

How
distributed
in the case of
friendly
societies.

(3) Instead of furnishing such statement to each member the society may transmit to each lodge or branch, for the information and use of its members, at least ten copies of the statement; and one copy shall be kept posted up at the head office of the society in a place accessible and convenient to the members until at least one month after the posting up of the next succeeding statement, and one copy shall be kept on record and shall be accessible to the members.

Fire insur-
ance com-
panies.

(4) In the case of fire insurance companies, other than those transacting purely non-hazardous mutual business, a copy of such summary statement shall be published in a newspaper published in the county or district in which the head office of the company is located on or before the fifteenth day of February in every year and proof of publication shall be filed with the Superintendent on or before the fifth day of March next following, in default of which the Superintendent shall cause such publication to be made at the expense of the company.

No different
statement to
be published.

(5) No statement purporting to show the financial condition of any Provincial corporation which differs from the statement filed with the Superintendent shall be published or circulated. 2 Geo. V. c. 33, s. 106 (2-5).

Valuing an-
nuities, etc.,
in statement
of liabilities.

107. In the case of an insurance corporation licensed under section 62 every contract of annuity upon life and every unmatured policy or contract of life, including endowment, or tontine, or semi-tontine insurance, required to be valued for a true showing of the corporation's liabilities shall be valued as provided by Schedule C. 2 Geo. V. c. 33, s. 107.

Annual
statement
to the
Registrar.

108.—(1) The presiding officer and the manager or secretary of every registered insurance corporation except those mentioned in sections 69, 70 and 71 shall prepare and file annually with the Superintendent as hereinafter prescribed, on a printed form to be furnished by him on application, a sworn statement of the financial condition and affairs of the corporation.

Statements
of fire
insurance
companies.

(2) In case of fire insurance companies other than those transacting a purely non-hazardous mutual business, the statement shall show as a liability the unearned premiums on all cash business in force on the 31st day of December then last past, and shall not show as assets unpaid balances owing by

agents or by other companies which are over three months due or bills receivable on account of the same.

(3) In the case of a company transacting any form of guarantee insurance the statement shall show as a liability the unearned premiums on unexpired contracts computed *pro rata* as at the date of the statement. Statements of guarantee companies.

(4) A corporation refusing or neglecting to file such statement, or to make prompt and explicit answer to any inquiries at any time put by the Superintendent touching the corporation's contracts or financial affairs, or which contravenes any of the provisions of section 106, shall be liable to suspension of registry. Consequences of failure to file statement or furnish information.

(5) A friendly society may include in its annual statement a valuation, made by an actuary and verified by his oath, of any or all of the contingent liabilities of the society; and the Registrar may in his annual report publish an abstract of such valuation as part of the society's statement. Statement of contingent liabilities of friendly society.

(6) In the case of a registered Provincial licensee such statement shall be prepared annually on the first day of January, or within one month thereafter, and shall be filed with the Superintendent on or before the first day of February then next ensuing. Statements of Provincial licensees, when to be delivered.

(7) In the case of a registered friendly society such statement shall be prepared annually on the first day of January or within one month thereafter and shall be filed with the Registrar on or before the first day of March then next ensuing. Statements of Friendly Societies, when to be delivered.

(8) With such statement the corporation shall file a certified copy of the summary statement required by section 106. Copy of summary statement.

(9) For every contravention of this section, the person in default shall incur a penalty of \$50 for each day's default, but not exceeding in the whole \$1,000, recoverable under *The Ontario Summary Convictions Act*. Penalty. Rev. Stat. c. 90.

(10) From the statements so filed the Superintendent shall in each year cause to be prepared, printed and distributed a report for the year ending on the 31st day of December next preceding, and such report shall include a list of registered insurance corporations. 2 Geo. V. c. 33, s. 108. Superintendent's annual report.

109.—(1) It shall be unlawful for any person to represent orally or in writing that the registry of an insurance corporation or the printing or publication of its annual statement in the report of the Superintendent or in any other publication of the Department is a warranty or guarantee of the financial standing of the corporation or of its actual actuarial solvency. Statements that financial standing warranted by Government prohibited.

Penalty.

(2) For every contravention of subsection 1 the person offending shall incur a penalty of not less than \$200 or more than \$500, recoverable under *The Ontario Summary Convictions Act*.

Prescribed powers of investment not enlarged.

(3) Where the constitution or rules of a corporation, branch or lodge prescribe the securities in which its funds shall be invested, nothing in this section shall enlarge the power of investment. 2 Geo. V. c. 33, s. 109 (1-3).

Power to hold real estate.

(4) Subject to its constitution or rules, any corporation registered under this Act, or any branch or lodge thereof, may hold absolutely for its own use and benefit such real estate as is necessary for the transaction of its business, and when so authorized by the Lieutenant-Governor in Council, may acquire or construct a building larger than is required for the transaction of its business, and may lease any part of such building not so required, and may hold such real estate as is acquired by it by foreclosure or in satisfaction of a debt, and may sell, mortgage, lease or otherwise dispose of the same; but the corporation, branch or lodge shall sell any such last mentioned real estate within seven years after it has been so acquired, otherwise it shall be forfeited to His Majesty for the uses of Ontario. 3-4 Geo. V. c. 35, s. 7.

Loans to and from directors, etc., forbidden.
Exception.

(5) No insurance corporation, branch or lodge shall contract with any of its auditors, trustees, directors, or executive officers for any loan or credit, or borrowing of money, except in the case of a life insurance company, where a loan may be made on the security of its own policies.

Liability of directors, etc., assenting to illegal investments.

(6) Where the trustees, directors or executive officers of an insurance corporation, or of a branch or lodge thereof, make an investment of any of the corporation's money not authorized by law, or lend any money of the corporation, or transfer the beneficial ownership of any of its property or assets to any one of themselves, or to any auditor, all of those who voted in favour of or assented to the investment, loan or transfer, shall be personally liable jointly and severally to repay or restore the money, property or assets so invested, loaned or transferred, with interest and if the Court so determines also with rests.

Action for recovery of money illegally disposed of.

(7) An action for the recovery of such money, property or assets may at any time be brought by a member or shareholder of the corporation on behalf of himself and all other members and shareholders, and all trustees, directors or executive officers may be made defendants; and the burden of proof that he did not vote for or assent to the investment, loan or transfer shall be on every such defendant.

Costs payable in instance by corporation.

(8) If, in the opinion of the Court, the plaintiff has proved that the investment, loan or transfer was not authorized by law he shall be entitled to his costs out of the funds

of the corporation, and the corporation shall have the right to recover such costs from the defendants personally or from such of them as the Court may determine. 2 Geo. V. c. 33, s. 109 (5-8).

110. Where, on or after the 14th day of April, 1892, a friendly society having its head office elsewhere than in Ontario had or has in the charge, possession, custody, or power of officers or agents resident in Ontario a reserve fund or funds for the security or assistance of members of the society, such fund or funds shall be deemed to be a fund held in trust for members in the jurisdiction of such officers or agents, and they shall be deemed and shall continue to be trustees of such fund or funds until other trustees thereof resident in Ontario are appointed by competent authority; and such trust fund or funds or as much thereof as from time to time shall remain unexpended shall be invested as provided by subsection 1 of section 111. 2 Geo. V. c. 33, s. 109 (9). Reserve funds held in Ontario.

111.—(1) The surplus insurance funds and the reserve fund of a Provincial insurance corporation or of a branch or lodge thereof shall be loaned or invested in the name of the corporation, branch or lodge in Permissible investments.

(a) Any securities in which, under *The Trustee Act*, trustees may invest trust funds, but not including debenture stock; Rev. Stat. c. 121.

(b) Debentures of any municipal or school corporation in Canada; and

subject to the approval of the Lieutenant-Governor in Council,

(c) In terminating debentures of companies registered under *The Loan and Trust Corporations Act*, or of incorporated companies which have, in the Dominion of Canada, for at least five consecutive years been actually supplying gas, water, heat, light, power, or electricity to the public or to any municipal corporation; or of steam, electric or street railway or telegraph or telephone companies in actual operation in Canada, but loans upon the security of, or the investment in the debentures of any of the companies mentioned in this clause shall not in the aggregate exceed one-fifth of the paid-up capital of the company. Rev. Stat. c. 184.

(2) Any uninvested money shall be kept on deposit in the name of the corporation, branch or lodge in a post-office savings bank, or in a chartered bank of Canada, or with a loan company registered under *The Loan and Trust Corporations Act*. 2 Geo. V. c. 33, s. 110. Deposit of uninvested money. Rev. Stat. c. 184.

Persons in
service of
corporation.
to furnish
security.

112.—(1) Every officer or person appointed or elected to any office concerning the receipt, safe-keeping or proper application of money shall furnish security for the just and faithful execution of the duties of his office according to the by-laws or rules of the corporation, and any person entrusted with the performance of any other service may be required to furnish similar security, and the securities so furnished and then subsisting shall be produced to the auditors at the annual audit.

Minimum in
case of
Provincial
companies.

(2) In the case of Provincial insurance companies the security given by the treasurer or other officer having charge of the money of the company shall not be less than \$2,000. 2 Geo. V. c. 33, s. 111.

Books of
account and
record to be
the property
of the
corporation.

113.—(1) The books used by any auditor, officer, collector or agent for verifying or recording money received for the corporation, branch or lodge shall be the property of the corporation, branch or lodge, and none of the foregoing persons or any solicitor, counsel or other person shall have in them or in any other of the books of account or record of the corporation any ownership or proprietary right, or any right of lien upon them.

Penalty.

(2) Any person who withdraws, withholds or detains any of such books from the possession or control of the trustees, directors or executive officers, or from the receiver or liquidator of the corporation, branch or lodge shall be guilty of an offence and the procedure and penalty shall be as in the case of a contravention of section 98. 2 Geo. V. c. 33, s. 112.

Delivery up
of books
after decease
or
bankruptcy
of officer.

(3) If a person appointed or elected to an office entrusted with and having in his possession books, money, securities, documents or other property or effects belonging to the corporation, branch or lodge, or relating thereto, dies, resigns, vacates his office or becomes incapacitated by mental or physical debility, or becomes bankrupt or insolvent, his legal representative or any other person having them in his possession or custody shall within fifteen days thereafter deliver the same to such person as the trustees, directors or executive officers may appoint. 2 Geo. V. c. 33, s. 113.

DIRECTORS—GENERAL PROVISIONS.

(All Provincial Insurance Companies.)

Application
of sections
115 to 120.

114. Sections 115 to 120 shall apply to all Provincial corporations registered on the Insurance Company Register. 2 Geo. V. c. 33, s. 114.

Appointment
of manager
and other
officers.

115.—(1) The directors may from time to time appoint a manager, secretary, treasurer, and such other officers, agents or assistants as they may deem necessary, prescribe their duties and fix their compensation or allowances, and shall

prescribe the amount of and take such security from them as is required by this Act for the faithful performance of their respective duties.

(2) The directors may also, subject to the provisions of this Act, adopt a table of rates, premiums or premium notes, as the case may be, and vary such table from time to time, and may also prescribe the maximum amount of any risk to be undertaken. Table of rates.
Maximum risk.

(3) In the case of all insurance corporations heretofore or hereafter incorporated by or under the authority of this Legislature a regular meeting of the directors shall be held at least once in every three months, and oftener if necessary, for transacting the business of the corporation, and a special meeting may at any time be held on the call of the President or acting President, upon at least three days' notice in writing, stating the business for which the special meeting is called. Meetings of the board.

(4) The directors shall keep a record of their proceedings in a book to be known as the Minute Book of the corporation in which also shall be entered the proceedings of all general meetings of the shareholders or members. 2 Geo. V. c. 33, s. 115. Minute book.

116.—(1) The directors may pass by-laws respecting the funds and property of the corporation, the duties of the officers, agents and assistants thereof, the effectual carrying out of the objects contemplated by this Act, the holding of the annual and other meetings, and all such other matters as appertain to the business of the corporation and are not contrary to law, and may from time to time alter and amend such by-laws, except where the repeal would affect the rights of others than the shareholders or members of the corporation or is prohibited by this Act. Power as to by-laws.
Exception.

(2) Every by-law shall be in writing and under the corporate seal, and shall be entered in a book called the By-law Book, and unless and until amended or repealed by the directors or amended or annulled by a general meeting of the shareholders or members or disallowed by the Superintendent shall be deemed to be a by-law of the corporation. By-laws of board to bind company.

(3) A copy of every by-law certified by the manager or secretary to be a true copy shall be filed with the Superintendent within seven days after the passing thereof. Filing with Department.

(4) A by-law may be disallowed by the Superintendent within one month after it is filed. Disallowance.

(5) Notice of such disallowance shall be forthwith given to the corporation. 2 Geo. V. c. 33, s. 116. Notice of.

117. The directors shall superintend and have the management of the funds and property of the corporation, and of General powers.

all matters relating thereto and not otherwise provided for. 2 Geo. V. c. 33, s. 117.

Re-insurance of risks.

118. The directors may make arrangements with any other registered corporation for the re-insurance of risks on such conditions with respect to the payment of premiums thereon as may be agreed upon. 2 Geo. V. c. 33, s. 118.

Borrowing powers.

119.—(1) The directors may issue debentures or promissory notes for the loan of money, and may borrow money thereon for any term not exceeding twelve months, and on such conditions as they may deem proper, and may renew the same from time to time for any such term, and the whole of the assets of the corporation, including premium notes shall be liable for the payment of the same at maturity, but no such debenture or promissory note shall be for a less sum than \$100.

Limitation of, in case of mutual and cash-mutual companies.

(2) In the case of a mutual or cash-mutual insurance company the amount of all the debentures and promissory notes at any one time outstanding shall not exceed one-fourth of the amount remaining unpaid upon its premium notes. 2 Geo. V. c. 33, s. 119.

REMUNERATION OF DIRECTORS.

Remuneration of directors.

120. At any annual general meeting of the shareholders or members of a corporation, or at any special general meeting thereof, if such purpose was clearly expressed in the notice of the special general meeting, it shall be lawful to enact by-laws for the remuneration of the directors, and a certified copy of every such by-law shall, within seven days after its passing, be filed with the Superintendent. 2 Geo. V. c. 33, s. 120.

FAILURE TO ELECT DIRECTORS.

Provision in case of failure to elect directors on proper day.

121. If an election of directors is not made on the day on which it ought to have been made the company shall not for that cause be dissolved, but the election may be held on a subsequent day, at a meeting to be called by the directors or as otherwise provided by the by-laws of the company, and in such case the directors then in office shall continue to hold office until their successors are elected. 2 Geo. V. c. 33, s. 121.

MUTUAL AND CASH-MUTUAL COMPANIES: THEIR INTERNAL MANAGEMENT.

Application of secs. 123-153.

122. Sections 123 to 153 shall apply only to mutual and cash-mutual fire insurance companies and to mutual live stock and mutual weather insurance companies. 2 Geo. V. c. 33, s. 122.

1. Admission and withdrawal of members.

123. The company may insure on the premium note plan ^{Premium note plan.} any property within the scope of the company's license, and the maker of the premium note shall from the date of the acceptance of the risk by the company be a member of it. ^{Membership.} 2 Geo. V. c. 33, s. 123.

124. Subject to section 125 every member shall be liable ^{Liability of members.} in respect of any loss or other claim or demand against the company to the extent of the amount unpaid upon his premium note and no more. 2 Geo. V. c. 33, s. 124.

125. Any member may with the consent of the directors ^{Members withdrawing.} withdraw from the company upon such terms as the directors may lawfully prescribe; and upon such withdrawal his policy shall be cancelled, but he shall nevertheless be liable to be assessed for and to pay his proportion of the losses, expense and reserve to the time of cancelling the policy, and on payment of the amount then payable he shall be entitled to a return of his premium note. 2 Geo. V. c. 33, s. 125.

2. General Meetings.

126.—(1) A meeting of the shareholders and members ^{Annual meeting for election of directors.} for the election of directors shall be held within the first two months of every year at such time and place as may be prescribed by the by-laws of the company.

(2) Before the election the statement mentioned in section ^{Annual statement.} 106 for the year ending on the previous thirty-first day of December shall be presented and read. 2 Geo. V. c. 33, s. 126.

127.—(1) Notice of every annual, general or special general meeting of the company shall be sent by post to every shareholder and member and shall be published in a newspaper published at or near the place where the head office is located at least two weeks previous to the day of the meeting. ^{Notice of annual or special meetings.}

(2) The directors may convene a general meeting of the company at any time. ^{Power of directors.} 2 Geo. V. c. 33, s. 127.

128.—(1) A member of the company shall be entitled ^{Voting powers of members.} at all meetings of the company to the number of votes in proportion to the amount of insurance held by him, according to the following scale: Under \$1,500, one vote; \$1,500 to \$3,000, two votes; and \$3,000 or over, three votes; but no member shall be entitled to vote while in arrear for any assessment or fixed payment due by him to the company.

(2) Where a policy on the premium note plan is made to two or more persons one only shall be entitled to vote, and the right of voting shall belong to the one first named on the ^{Where policy made to two or more persons.}

register of policy holders if he is present, and if not present to the one who stands second and so on.

Cash-mutual
companies
with share
capital.

(3) Where the company is a cash-mutual company and has a share capital every shareholder shall be entitled to the same number of votes as he would be entitled to if the company had been incorporated under *The Ontario Companies Act*. 2 Geo. V. c. 33, s. 128.

Rev. Stat.
c. 178.

Right of mere
applicants.

129. No applicant for insurance shall be competent to vote or otherwise take part in the company's proceedings until his application has been accepted by the directors. 2 Geo. V. c. 33, s. 129.

3. Directors, Qualification, Election, etc.

Qualification
of directors.

130.—(1) No person shall be eligible to be or shall act as a director unless he is a member of the company and insured therein for the time he holds office

(a) In the case of a live stock insurance company to the amount of \$200 at least; and

(b) In the case of every other company to the amount of \$800 at least.

Where com-
pany has a
share
capital.

(2) Where the company has a share capital at least two-thirds of the directors shall also be holders of shares each to the amount of not less than \$1,000 upon which all calls have been paid.

Representa-
tion of cor-
porations.

(3) The President or a Director of a corporation which has the qualification which would qualify an individual to be a director shall be eligible to be a director of the company.

Representa-
tion of part-
nerships.

(4) Where a partnership has the qualification which would qualify an individual to be a director of the company one member of the partnership shall be eligible to be a director of the company. 2 Geo. V. c. 33, s. 130.

Number of
directors.

131.—(1) The board shall consist of six, nine, twelve or fifteen directors, as shall be determined by resolution passed at the meeting held under section 19.

Increase or
decrease in
number,
how made.

(2) The number of directors may from time to time be increased or decreased if so determined at a special general meeting of the company called for the purpose, or at an annual general meeting, if notice in writing of the intention to propose a by-law for that purpose at such annual general meeting is given to the secretary of the company at least one month before the holding of the meeting; but the increased or decreased number of directors shall in any such case be six, nine, twelve or fifteen.

Notice of
proposed
change.

(3) Where such a notice has been given to the secretary that fact shall be stated in the notice of the annual general meeting.

(4) With the copy of the by-law filed with the Superintendent there shall be filed a list of the directors elected thereunder certified under the hands of the chairman and secretary of the meeting. 2 Geo. V. c. 33, s. 131.

Copy of resolution and list of directors to be filed.

132. One-third of the directors shall retire annually in rotation, and at the first meeting of the directors, or as soon thereafter as possible, it shall be determined by lot which of them shall hold office for one, two or three years respectively, and the determination shall be entered on the minutes of the meeting. 2 Geo. V. c. 33, s. 132.

Retirement of directors in rotation.

133. At every annual general meeting thereafter one-third of the total number of directors shall be elected for a period of three years, to fill the places of the retiring directors, who shall be eligible for re-election. 2 Geo. V. c. 33, s. 133.

Annual election to fill vacancies.

134. The manager of the company, although he has not the qualification required by section 130, may be a director of the company and may be paid an annual salary under a by-law passed as provided by section 120. 2 Geo. V. c. 33, s. 134.

Manager may be a director. His salary.

135.—(1) No agent, or paid officer, or officer of the bankers of the company, or person in the employment of the company, other than the manager, shall be eligible to be elected as a director or shall interfere in the election of directors.

Certain persons not eligible as directors.

(2) Nothing herein shall apply to a person receiving applications for insurance, or taking to his own use the customary application, survey or policy fee, not exceeding \$1.50 in respect of any one policy, or prevent a director from so doing. 2 Geo. V. c. 33, s. 135.

Fees of director taking application.

136.—(1) The election of directors shall be held and made by such shareholders and members as attend for that purpose in their proper persons, or in the case of a corporation or partnership by a person authorized in writing to represent it.

Election of directors.

(2) The election shall be by ballot.

Ballot.

(3) If two or more members have an equal number of votes, so that less than the whole number to be elected appear to have been chosen directors by a majority of votes, the members present shall proceed to ballot until it is determined which of the persons so having an equal number of votes shall be the director or directors.

Case of a tie at an election.

(4) The directors shall at their first meeting after any such election elect by ballot from among themselves a president and vice-president, and the secretary shall preside at such election. 2 Geo. V. c. 33, s. 136.

Election of president and vice-president.

Interim
vacancies
in office.

137. If a vacancy occurs among the directors during the term for which they have been elected by death, resignation, ceasing to have the prescribed qualification, insolvency, or by absence without previous leave of the directors, from three successive regular meetings which shall, *ipso facto*, create such vacancy, the vacancy, in the case of a board limited to six directors, shall be filled, and in the case of a board limited to a number of directors exceeding six, may be filled, until the next annual general meeting, by any person duly qualified chosen by a majority of the remaining directors as soon as may be after the vacancy occurs, and at the next annual general meeting the vacancy shall be filled for the portion of the term still unexpired. 2 Geo. V. c. 33, s. 137.

Quorum of
directors.

138.—(1) Three directors shall constitute a quorum for the transaction of business, and in the case of an equality of votes at any meeting the question shall pass in the negative.

Recording
dissent.

(2) A director disagreeing with the majority at a meeting may have his dissent recorded with his reasons therefor. 2 Geo. V. c. 33, s. 138.

4. Premium Notes and Assessments.

Company
may accept
premium
notes.

139.—(1) The company may accept the premium note of the assured for insurance, and may undertake contracts in consideration thereof, and such notes shall be assessable for the losses, expenses and reserve of the company in the manner hereinafter provided.

Nothing
but notice
to appear
on same
paper.

(2) Nothing except the notice provided for by section 150 shall be written upon the same paper upon which a premium note is written and a violation of this section shall render the premium note absolutely void. 2 Geo. V. c. 33, s. 139.

Minimum
rates.

140. The rate to be charged or taken by way of premium note for insuring first-class isolated non-hazardous property shall not be less than one dollar per one hundred dollars per annum, and the minimum rate of insurance upon other property shall be increased relatively with the increased risk according to the nature of such property; but a rate less than \$1 per \$100 of the amount insured per annum may be charged or taken when and so long as the total amount at risk exceeds \$2,000,000, and the total assets of the company do not fall below two per centum of the total amount at risk, or so long as the company keeps on deposit with the Minister the full amount prescribed by this Act. 2 Geo. V. c. 33, s. 140.

Part pay-
ment may be
demanded at
the time of
application
for insur-
ance.

141.—(1) The directors may demand in cash a part or first payment on the premium note at the time of the application for insurance, and such first payment shall be credited upon the premium note or against future assessments, but not more than sixty per centum of any premium note shall be paid in cash at the time of the application or of effecting the insurance.

(2) Instead of requiring the whole of the first payment to be made in cash at the time of the application for insurance, the directors may make the same payable in annual instalments, the first of which shall be payable at the time of the application for insurance, and the remaining instalments shall be respectively payable on the first day of each subsequent year of the term of insurance.

First payment on premium note may be made in annual instalments.

(3) Such annual instalments may be known and described as "the first (or second, or as the case may be) fixed payment."

Numbered.

(4) Non-payment of any fixed payment subsequent to the first shall forfeit the insurance if the fixed payment remains unpaid for thirty days after notice of its non-payment has been mailed to the person by whom it is payable, directed to his post office address given in the original application, or otherwise given in writing to the company, or if such fixed payment is not made when it becomes due where thirty days' notice in writing of its becoming payable has been so given.

When non-payment of subsequent premiums to effect forfeiture.

(5) On every premium note taken for insurance by a mutual fire insurance company incorporated after the first day of June, 1904, there shall be payable at the commencement of each year of insurance a fixed sum amounting to at least one-fifth of one per centum of the sum insured; and the premium note shall, as to the residue thereof, be subject to assessment by the directors. 2 Geo. V. c. 33, s. 141.

In case of mutual fire companies, fixed sums, to be paid annually.

142.—(1) All premium notes shall be assessed by the directors at such intervals from their respective dates for such sums as they may determine, and for such further sums as they may deem necessary and as are authorized by this Act, for losses, expenses and reserve during the currency of the policies for which such notes were given, and in respect of which they are liable to assessment; and every member of the company who has given a premium note shall pay the sums from time to time payable by him to the company during the continuance of his policy in accordance with the assessment, and the assessment shall become payable in thirty days after notice thereof has been mailed to the member who has given the premium note, directed to his post office address, given in the original application, or otherwise given in writing to the company.

Assessment on premium note.

Notice to be given of the assessment.

(2) If the property insured has been mortgaged by the member and the company has assented to the mortgage it shall be necessary that the notices mentioned in subsection 4 of section 141 and subsection 1 of this section be also mailed to the mortgagee if his post office is known to the company. 2 Geo. V. c. 33, s. 142.

When mortgagee to be notified.

Policy void,
if assessment
or note is
not paid
within
thirty days;

Revivor by
subsequent
payment.

Assured's
liability.

Requisites of
notice of
assessment.

Assessment,
how propor-
tioned.

Return of
premium
note after
insurance
ended.

Company
may sue for
assessments
on premium
notes.

143.—(1) If an assessment is not paid within thirty days after notice mailed as provided by section 142 the contract of insurance in respect of which the assessment has been made shall be null and void as to all claim for loss occurring during the time of non-payment; but the contract shall be revived when the assessment has been paid unless the secretary gives notice to the contrary to the person assessed in the manner in this Act provided.

(2) Nothing herein contained shall relieve the assured from his liability to pay the assessment or any subsequent assessments, nor shall he be entitled to recover the amount of any loss or damage which happens to property insured under the contract while the assessment remains due and unpaid, unless the directors determine otherwise.

(3) A notice of assessment so mailed shall be sufficient if it states the register number of the contract, the period over which the assessment extends, the amount of the assessment, the time when and the place where it is payable. 2 Geo. V. c. 33, s. 143.

144. Subject to the provisions of section 140 the assessment shall always be in proportion to the amount of the premium notes, but where a company alters its premium note rate and still holds in respect of subsisting contracts premium notes at the prior rate the company, as between the respective premium notes so differing in rate may make and levy such differential assessments as will in risks of the same amount and of the same class of hazard equalize the cost of insurance to the makers of the respective premium notes. 2 Geo. V. c. 33, s. 144.

145. On the expiration of forty days after the term of insurance has ended the premium note given for the term shall be null and void, except as to the first payment or fixed payments remaining unpaid, and as to lawful assessments of which the prescribed written notice has been given to the maker of the premium note during the currency of the policy or within such period of forty days, and on the expiration of such period the premium note shall, upon application therefor, be given up to the maker, provided all liabilities with which the premium note is chargeable have been paid. 2 Geo. V. c. 33, s. 145.

146. If, for thirty days after notice of an assessment so mailed, a member who has given a premium note refuses or neglects to pay the assessment the company may sue for and recover the same with costs of suit, and such proceeding shall not be a waiver of any forfeiture incurred by such non-payment. 2 Geo. V. c. 33, s. 146.

147. Where an action is brought to recover the assess-^{Evidence of amount due to the company.}ment the certificate of the secretary of the company, specifying the assessment and the amount due on the note in respect of such assessment shall be *prima facie* evidence thereof in any Court. 2 Geo. V. c. 33, s. 147.

148. The company may form a reserve fund, to consist^{Reserve fund.} of all moneys which remain on hand at the end of each year after payment of ordinary expenses and losses, and for that purpose may make an annual assessment not exceeding ten^{Annual assessment.} per centum on the premium notes held by the company, and the reserve fund may from time to time be applied by the directors to pay off such liabilities of the company as may^{How applied.} not be provided for out of the ordinary receipts for the same or any succeeding year. 2 Geo. V. c. 33, s. 148.

149. If there is a loss on property insured the directors^{Directors may retain amount of premium notes.} may retain the amount of the premium note until the time has expired for which insurance has been made, and at the expiration of such time the assured shall have the right to demand and receive such part of the retained sum as has not been assessed for. 2 Geo. V. c. 33, s. 149.

150. Any action upon any premium note or for an assess-^{Actions in division courts brought.}ment thereon cognizable in a division court may be entered, tried and determined in the court for the division wherein the head office or any agency of the company is located, where and where only within the body of such note, or across the face thereof, there was at the time of the making of it printed in conspicuous type, and in ink of a colour different from any other in or on such note, the words following: "Any action which may be brought or commenced in a Division Court in respect or on account of this note, or any sum to be assessed thereon, may be brought and commenced against the maker hereof in the Division Court for the division wherein the head office or any agency of the company is located." 2 Geo. V. c. 33, s. 150.

151. No premium note shall create a lien upon the land^{Premium notes not to create lien on land.} on which the insured property is situate. 2 Geo. V. c. 33, s. 151.

152.—(1) A registered cash-mutual fire insurance com-^{Powers of incorporated companies to insure on the cash-premium principle.}pany may effect insurance upon the cash-premium plan, for a period not exceeding three years, on farm and other non-hazardous property, and for one year or less on any other class of property, but the amount of premiums received on cash insurances in any one calendar year shall not exceed four times the amount which the company has then on deposit with the Minister.

(2) If at any time the amount of such premiums exceedsⁱ the amount authorized by subsection 1 the company shall at^{When deposit must be increased.}

once increase its deposit to an amount sufficient to warrant the excess, and in default the Minister may suspend or cancel its license.

What funds
liable for
losses.

(3) All the property and assets of the company, including premium notes, shall be liable for all losses under contracts of insurance for cash premiums. 2 Geo. V. c. 33, s. 152.

5. Executions Against Mutual and Cash-Mutual Companies.

When execu-
tion upon
judgment
against
company.

153.—(1) No execution shall issue against a mutual or cash-mutual company upon a judgment until after the expiration of sixty days from the recovery thereof, but this section shall not apply to a judgment recovered on a contract of insurance where more than sixty per centum of the premium, or premium note, was paid in cash at the time of the insurance or the application therefor.

When order
may be made
for issue.

(2) A Judge of the Supreme Court or the Master in Chambers, after the recovery of a judgment against the company, upon the application of the judgment creditor and upon notice to the company, may inquire into the facts, and if he finds that more than sixty per centum of the premium note was paid in cash at the time of the insurance, or upon the application therefor, he may direct that execution be issued forthwith upon such judgment. 2 Geo. V. c. 33, s. 153.

GENERAL PROVISIONS RELATING TO CONTRACTS OF INSURANCE.

Application
of sections
155 to 158.

154. Except where otherwise provided sections 155 to 158 shall apply to every contract of insurance. 2 Geo. V. c. 33, s. 154.

Contracts to
be deemed
made in
Ontario.

155.—(1) Where the subject-matter of a contract of insurance is property or an insurable interest in property within Ontario, or is a person domiciled or resident therein, the contract of insurance, if signed, countersigned, issued or delivered in Ontario or committed to the post office or to any carrier, messenger or agent to be delivered or handed over to the assured, his assign or agent in Ontario, shall be deemed to evidence a contract made therein, and the contract shall be construed according to the law thereof, and all moneys payable under the contract shall be paid at the office of the chief officer or agent in Ontario of the insuring corporation in lawful money of Canada.

Idem.

(2) This section shall have effect notwithstanding any agreement, condition or stipulation to the contrary. 2 Geo. V. c. 33, s. 155.

Terms, etc.,
of contracts
invalid un-
less set out
in full.

156.—(1) Subject to the provisions of section 193 all the terms and conditions of the contract of insurance shall be set out in full on the face or back of the policy or by writing securely attached to it when issued, and unless so set out

no term of the contract or condition, stipulation, warranty or proviso modifying or impairing its effect shall be valid or admissible in evidence to the prejudice of the assured or beneficiary.

(2) Whether the contract does or does not provide for its renewal but it is renewed by a renewal receipt it shall be a sufficient compliance with subsection 1, if the terms and conditions of the contract were set out as provided by that subsection and the renewal receipt refers to the contract by its number or date.

(3) The proposal or application of the assured shall not as against him be deemed a part of or be considered with the contract of insurance except in so far as the Court may determine that it contains a material misrepresentation by which the insurer was induced to enter into the contract.

(4) A registered friendly society instead of setting out all the terms and conditions of the contract in the instrument of contract may indicate therein by particular references those articles or provisions of the constitution, by-laws or rules which contain the material terms of the contract not set out in the instrument of contract, and the society, at or prior to its delivery, shall also deliver to the assured a copy of the constitution, by-laws and rules therein referred to.

(5) No contract of insurance shall contain or have endorsed upon it, or be made subject to, any term, condition, stipulation, warranty or proviso, providing that such contract shall be avoided by reason of any statement in the application therefor, or inducing the entering into of the contract by the corporation, unless such term, condition, stipulation, warranty or proviso is limited to cases in which such statement is material to the contract, and no contract shall be avoided by reason of the inaccuracy of any such statement unless it is material to the contract.

(6) The question of materiality in any contract of insurance shall be a question of fact for the jury, or for the Court if there is no jury; and no admission, term, condition, stipulation, warranty or proviso to the contrary contained in the application or proposal for insurance, or in the instrument of contract, or in any agreement or document relating thereto shall have any force or validity.

(7) Nothing in this section shall impair the effect of the provisions of sections 194 to 201. 2 Geo. V. c. 33, s. 156.

157. Every corporation shall furnish to the assured upon request a true copy of his application or proposal for insurance. 2 Geo. V. c. 33, s. 157.

Consolidation of actions for insurance money.

158.—(1) Where several actions are brought for the recovery of money payable under a contract of insurance the Court may consolidate or otherwise deal therewith so that there shall be but one action for and in respect of all the claims made in such actions.

Where infants are entitled to insurance money.

(2) Where an action is brought to recover the share of one or more infants all the other infants entitled, or the trustees, executors, or guardians entitled to receive payment of the shares of such other infants, shall be made parties to the action, and the rights of all the infants shall be determined in one action.

Apportionment of sums directed to be paid.

(3) In all actions where several persons are interested in the insurance money the Court or Judge may apportion among the persons entitled any sum directed to be paid, and may give all necessary directions and relief.

Action for annuity or recurring payment.

(4) In an action commenced in a Division Court or a County or District Court for any insurance or benefit alleged to be payable to the assured or any beneficiary, assignee, representative or guardian, when the insurance or benefit claimed is in the nature of an annuity, or other periodical or recurring payment, so that the present or capitalized value of the insurance or benefit amounts or may amount to a sum beyond the jurisdiction of the Court, the action may upon the application of the defendant be removed into the Supreme Court upon such terms and conditions as to costs and otherwise as the Court may direct.

When payee is domiciled or resident abroad.

(5) Where the person entitled to receive money due and payable under any contract of insurance, except insurance of the person, is domiciled or resides in a foreign jurisdiction and payment, valid according to the law of such jurisdiction, is made to such person, such payment shall be valid and effectual for all purposes. 2 Geo. V. c. 33, s. 158.

Effect of delivery of policy or receipt for premium.

159.—(1) Where the contract of insurance has been delivered it shall be as binding on the insurer as if the premium had been paid, although it has not in fact been paid, and although delivered by an officer or agent of the insurer who had not authority to deliver it.

Right of insurer in respect of unpaid premium.

(2) The insurer may sue for the unpaid premium and may deduct the same from the amount for which he may become liable under the policy or contract of insurance.

Section to prevail over agreement.

(3) This section shall have effect notwithstanding any agreement, condition or stipulation to the contrary.

Where note or cheque for premium not paid.

(4) Where the premium is paid by a cheque or a promissory note and the cheque is not paid on presentation or the promissory note at maturity the contract shall at the option of the insurer be void. 2 Geo. V. c. 33, s. 159.

GUARANTEE INSURANCE.

160.—(1) Every contract of title insurance shall be in writing, and in addition to the other requirements prescribed by this Act shall expressly limit the liability of the insurer to a sum stated in the contract. Contracts of Title Insurance.

(2) If any question arises as to the validity of the title insured, or as to the liability of the insurer, the insurer or the assured or any person entitled to proceed in right of either may by application have such question determined as provided in *The Vendors and Purchasers' Act* in the case of vendors and purchasers. Questions as to validity of title. 2 Geo. V. c. 33, s. 160. Rev. Stat. c. 122.

161. No guarantee company incorporated under this Act shall undertake or transact title insurance or credit insurance unless expressly empowered to do so by the Letters Patent of incorporation. Special power required to transact title or credit insurance. 2 Geo. V. c. 33, s. 161.

INSURANCE OF THE PERSON.

1. *General provisions applicable to all Insurers.*

162. Sections 163 to 190 shall apply to insurance of the person. 2 Geo. V. c. 33, s. 162. Application of secs. 163 to 190.

163.—(1) In insurance of the person, "heirs," "legal heirs" or "lawful heirs" shall in a contract of insurance mean and include all the lawful surviving children of the assured and also the wife or husband if surviving the assured, or where the assured died without lawful surviving children and unmarried it shall mean those persons entitled to take according to *The Devolution of Estates Act*. "Heirs," "legal heirs," or "lawful heirs," meaning of. Rev. Stat. c. 119.

(2) This section shall in the case of an assured dying after the 19th day of March, 1910, apply to insurance of the person effected on or before the 13th day of April, 1897 and to all such insurances thereafter effected. 2 Geo. V. c. 33, s. 163. Application of section.

164.—(1) Where the money payable by way of premiums, dues or assessments, not being the initial premiums, dues or assessments under a contract, is unpaid, the assured or any beneficiary under the contract, or the executors, administrators or assigns of the assured or of any beneficiary may, within thirty days from and including the first day on which the money is due, pay, deliver or tender to the company at its head office, or at its chief agency in Ontario, or to the company's collector or authorized agent, the sum in default. Days of grace for payment of premiums.

(2) The payment, delivery or tender may be by sending the money in a registered letter, and it shall be deemed to have been paid, delivered or tendered at the time of the delivery and registration of the letter at a post office in Ontario. Transmission of premium by registered post.

Effect of
payment
during days
of grace.

(3) On such payment, delivery or tender, the contract shall be *ipso facto* revived notwithstanding any agreement or stipulation to the contrary.

Statutory
period to be
concurrent
with days of
grace.

(4) Such thirty days shall run concurrently with the period of grace or credit if any allowed by the insurer for the payment of a premium or an instalment of premium.

Assessments
by benefit
societies.

(5) This section shall not extend the time allowed by subsection 1 of section 188 for the payment of contributions or assessments. 2 Geo. V. c. 33, s. 164.

Limitation
of actions.

165.—(1) Subject to the provisions of section 89 and of subsections 2 to 9, notwithstanding any agreement, condition or stipulation to the contrary, any action or proceeding against the insurer for the recovery of any claim under the contract of insurance may be commenced at any time within one year next after the cause of action arose and not afterwards.

Where
death is
presumed.

(2) Where death is presumed from the person on whose life the insurance is effected not having been heard of for seven years any action or proceeding may be commenced within one year and six months from the expiration of such period of seven years, but not afterwards.

Where death
becomes
known.

(3) Where the death of the person on whose life the insurance is effected is unknown to the person entitled to claim under the contract an action or proceeding may be brought within one year and six months after the death becomes known to him but not afterwards, but where the death is presumed as mentioned in subsection 2 this subsection shall not entitle the claimant to bring an action or proceeding after the time mentioned in that subsection.

Where
action pre-
maturely
brought.

(4) Where an action or proceeding brought within the prescribed period fails because of its having been prematurely brought, and on that ground only, the plaintiff shall be entitled to bring a new action or proceeding at any time within the prescribed period or within six months after the final determination of the first action or proceeding.

Obtaining
declaration
of presump-
tion of
death.

(5) Where a claim is made against an insurer on the ground that the person on whose life the insurance is effected is presumed to be dead by reason of his not having been heard of for seven years, and his death is the sole issue between the parties other than disputes as to the persons entitled, such insurer may, before or after action brought, upon at least ten clear days' notice served on the claimant or his solicitor, apply to a Judge of the Supreme Court in Chambers for a declaration as to the presumption of the death.

Application
to Judge.

Finding of
Judge.

(6) If the Judge is satisfied that a presumption of death has been established he shall so find and his finding shall, subject to appeal, be binding and conclusive upon all parties

interested as establishing the presumption of death, and he may make such order as to the payment of the insurance money as he may deem just.

(7) The payment by the insurer as so ordered shall discharge him from all liability under the contract of insurance. Effect of payment.

(8) Where the Judge declares that the presumption of death has not been established he may make such other order as he may deem just. Powers of judge.

(9) Unless otherwise ordered by the Judge the application shall operate as a stay of any pending action based upon such presumption. 2 Geo. V. c. 33, s. 165. Stay of proceedings.

166.—(1) Where the age of a person is material to a contract of insurance and was given erroneously in any statement or warranty made for the purposes of the contract, such contract shall not be avoided by reason only of the age being other than as stated or warranted if it appears that such statement or warranty was made in good faith and without any intention to deceive, but the person entitled to recover on such contract shall not be entitled to recover more than an amount which bears the same ratio to the sum that such person would otherwise be entitled to recover as the premium proper to the stated age bears to the premium proper to the actual age, both being taken as at the date of the contract, but in no case shall the amount recoverable exceed the amount stated or indicated in the contract. Error in age not to void contract, but benefit to abate.

(2) Where the application for and contract of insurance expressly limit the insurable age, and the actual age at the date of the application exceeds the age so limited, the contract shall, during the lifetime of the person on whose life the insurance was effected and not later than five years from the date of the contract, be voidable at the option of the insurer within thirty days after the error comes to his knowledge. Proviso.

(3) If the error includes a fractional part of a year exceeding a half year such fractional part shall be computed as a whole year, but if the fractional part does not exceed a half year it shall be disregarded in the computation. Fractional part of a year.

(4) Where by the terms and for the purposes of the contract, the age was taken to be greater than the actual age the number of years added to such age shall, for the purposes of the calculation, be added to the actual age. Computation of the additional years.

(5) Where an error is discovered in respect of a contract of insurance, or of any premium paid or to be paid upon such contract, nothing herein contained shall at any time before the maturity of the contract prevent an adjustment between the insurer and the assured of the amount of the insurance effected or of any premium paid or to be paid. Right to adjust error at any time before maturity of contract.

(6) For the purposes of this section "premium" shall mean the net annual premium as shown in or deduced from the Hm Tables of the Institute of Actuaries of Great Britain, Premium.

the rate of interest being taken at four and one-half per centum per annum. 2 Geo. V. c. 33, s. 166 (1-5).

Notice to insured that age is material and that proof is required.

(7) Subject to the provisions of the previous subsections of this section, every corporation registered under this Act shall send to every person with whom a contract is made, within one month thereafter, a printed notice mailed to the last known address of the insured in such form as the Superintendent shall approve, and annually thereafter until proof of age is admitted, stating that the age of the insured is material to the contract, and that evidence that the age stated in the application is the true age of the insured will be required before the policy is paid; and such notice shall also be printed in red ink in type not smaller than 10 point upon all notices to the insured and upon all receipts for premiums.

Not to apply to industrial insurance.

(8) Subsection 7 shall not apply to contracts issued under the industrial plan.

Friendly societies may publish in official journal.

(9) Subsection 7 shall not apply to a registered friendly society, provided that the notice mentioned therein is published on the first page of the official newspaper or journal of the society, in each issue thereof, and printed in red ink in type not smaller than 10 point upon all certificates issued by the society, and upon all receipts or pass-books issued to the members.

When age to be deemed admitted.

(10) Upon failure of a corporation to comply with the provisions of subsection 7, the corporation shall be deemed to have admitted the age mentioned in the application as the correct age. 3-4 Geo. V. c. 35, s. 8.

Retrospective application.

(11) This section shall apply not only to any future application for, or contract of insurance, but also to any application heretofore taken and to any contract heretofore made. 2 Geo. V. c. 33, s. 166 (6).

Valuation tables.

167. To facilitate the use of the said Hm. Tables for any of the purposes of this Act such tables may be taken as they appear in any published edition or collection of standard actuarial or valuation tables, or in the appendices to the detailed reports of 1905 and 1906 of the Inspector of Insurance and Registrar of Friendly Societies printed by order of the Assembly. 2 Geo. V. c. 33, s. 167.

Suicide shall not render contestable an incontestable policy unless so stated.

168. Where a contract of insurance provides in terms or in effect that the contract shall be indisputable or incontestable it shall not be disputable or contestable on the ground that the assured committed suicide unless in express terms it is so stipulated by the contract and is so stated in the application on which the contract is founded. 2 Geo. V. c. 33, s. 168.

169.—(1) It shall be necessary for the validity of a contract of insurance that the beneficiary under it, if he is not the person on whose life the insurance is effected, or the parent, or *bona fide* donee, grantee or assignee, or a person entitled under the will of such person, or by operation of law, shall have at the date of the contract a pecuniary interest in the duration of the life or other subject insured, but any otherwise lawful contract of annuity upon life shall not require for its validity that the annuitant has or at any time had an insurable interest in the life of the nominee.

Insurable interest necessary to support contract.

(2) Where a pecuniary interest is necessary the insurer shall not be liable under the contract for more than the amount or value of the pecuniary interest.

Extent of liability.

(3) No corporation shall insure the life of a child whose age at the time of insurance is not at least one year, or insure or pay on the death of a child under ten years of age any sum which alone or together with any sum payable on the death of such child by any other corporation exceeds respectively—

Sums insurable at ages less than ten.

\$32—	If the child dies under the age of 2 years.
40—	“ “ “ 3 “
48—	“ “ “ 4 “
56—	“ “ “ 5 “
83—	“ “ “ 6 “
120—	“ “ “ 7 “
160—	“ “ “ 8 “
200—	“ “ “ 9 “
260—	“ “ “ 10 “

(4) Nothing in subsection 3 shall apply to such insurances as were in force on the 14th day of April, 1892, or to an insurance on the life of a child of any age where the person effecting the insurance has a pecuniary interest in the life.

Proviso.

(5) Where the age of the child at the date of the contract is less than ten years and the insurer has knowingly or without sufficient inquiry entered into any contract prohibited by this section the premiums paid thereunder shall be recoverable from the insurer by the person paying the same together with interest thereon.

Where insurance excessive.

(6) Every corporation which undertakes or effects insurances on the lives of children under ten years of age shall print subsections 1 to 5 in conspicuous type upon every circular soliciting, and upon every application for, and every contract of such insurance; and any contravention of this subsection shall be punishable in the manner provided by section 98.

Subsecs. 1 to 5 to appear on circular, etc.

(7) Instead of printing the matter mentioned in subsection 6 the corporation may with the consent in writing of the Superintendent print or stamp the following words in lieu

Notice in lieu of printing subsections.

thereof:—"Any insurance undertaken or offered to be undertaken in Ontario in respect of the lives of children under ten years of age is subject to the restrictions prescribed by section 169 of *The Ontario Insurance Act*."

Insurance of
minors effected
by parents.

(8) An insurance heretofore or hereafter effected by a parent upon the life of his child under twenty-one years of age shall not be invalid by reason only of the parent's want of pecuniary interest in the life of the child.

Capacity of
minors of
fifteen years
and upwards
to insure.

(9) A person not of the full age of twenty-one years, but of the age of fifteen years or upwards, may effect insurance on his own life for his own benefit, or for the benefit of a preferred beneficiary or of a father, brother or sister, which, if he had been of full age he might have lawfully effected, and notwithstanding his minority he may surrender such insurance or give a valid discharge for any benefit accruing or for money payable under the contract. 2 Geo. V. c. 33, s. 169; 3-4 Geo. V. c. 35, s. 9.

Application
of ss. 171
to 182.

170. Except in so far as the same are inconsistent with the provisions of this Act relating to contracts made or declared to be for the benefit of a preferred beneficiary or preferred beneficiaries, sections 171 to 182 shall apply to all contracts of insurance of the person and declarations whether made before or after the passing of this Act. 2 Geo. V. c. 33, s. 170.

Insurable
interest of
adult in own
life.

171.—(1) Every person of the full age of twenty-one years shall have an unlimited insurable interest in his own life and may effect *bona fide* at his own charge insurance of his own person for the whole term of life, or any shorter term for the sole or partial benefit of himself, or of his estate, or of any other person, whether the beneficiary has or has not an insurable interest in the life of the assured, and the insurance money may be made payable to any person for his own use or as trustee for another person.

Rights of
creditors.

(2) If the premiums on such insurance were paid by the assured with intent to defraud his creditors they shall be entitled to receive out of the insurance money an amount not exceeding the premiums so paid and interest thereon.

Beneficiary,
how design-
ated.

(3) The assured may designate the beneficiary by the contract of insurance or by an instrument in writing attached to or endorsed on it or by an instrument in writing, including a will, otherwise in any way identifying the contract, and may by the contract or any such instrument, and whether the insurance money has or has not been already appointed or apportioned, from time to time appoint or apportion the same, or alter or revoke the benefits, or add or substitute new beneficiaries, or divert the insurance money wholly or in part to himself or his estate, but not so as to alter or divert the benefit of any person who is a beneficiary for value, nor so

as to alter or divert the benefit of a person who is of the class of preferred beneficiaries to a person not of that class or to the assured himself or to his estate.

(4) Where the instrument by which a declaration is made is a will such declaration as against a subsequent declaration shall be deemed to have been made at the date of the will and not at the death of the testator. Effect of declaration by will.

(5) Where the declaration describes the subject of it as the insurance or the policy or policies of insurance or the insurance fund of the assured, or uses language of like import in describing it, the declaration, although there exists a declaration in favour of a member or members of the preferred class of beneficiaries, shall operate upon such policy or policies to the extent to which the assured has the right to alter or revoke such last mentioned declaration. Operation of general declaration.

(6) The assured may, by the contract or by a declaration or by any writing under his hand, appoint a trustee or trustees of the insurance money and may from time to time revoke such appointment in like manner and appoint a new trustee or trustees and make provision for the appointment of a new trustee or trustees, and for the investment of the insurance money, and payment made to such trustee or trustees shall discharge the insurer. Appointment of trustees.

(7) A beneficiary shall be deemed to be a beneficiary for value only when he is expressly stated to be so in the contract or in an endorsement thereon signed by the assured. Beneficiary for value.

(8) Nothing in this Act shall restrict or interfere with the right to effect or assign a policy in any other manner allowed by law. Other modes of assignment not affected.

(9) Where there are several beneficiaries, if one or more of them die in the lifetime of the assured and no apportionment or other disposition is subsequently made by him, the insurance shall be for the benefit of the surviving beneficiary or beneficiaries, in equal shares if more than one; and if all the beneficiaries, or the sole beneficiary, die in the lifetime of the assured and no other disposition is made by him the insurance shall form part of the estate of the assured. Provision in case of death of persons entitled where no apportionment.

(10) Until the insurer has received the original or a copy of an instrument in writing affecting the insurance money or any part thereof, or of any appointment or revocation of an appointment of a trustee, the insurer may deal with and obtain a valid discharge from the assured, or with and from his beneficiaries, or with and from his trustees, executors, administrators or assigns in the same manner and with the like effect as if such instrument in writing, appointment, or revocation had not been made, but nothing in this subsection shall affect the right of any person entitled by virtue of such instrument, appointment, or revocation to recover insurance Protection of insurer in paying insurance before notice of declaration.

money from the person to whom it has been paid by the insurer. 2 Geo. V. c. 33, s. 171.

What accident includes.

172.—(1) In every contract of insurance against accident or casualty or disability, total or partial, the event insured against shall include any bodily injury occasioned by external force or agency, and happening without the direct intent of the person injured, or as the indirect result of his intentional act, such act not amounting to voluntary or negligent exposure to unnecessary danger and no term, condition, stipulation, warranty or proviso of the contract varying the obligation or liability of the assurer shall as against the assured have any force or validity.

Right to terminate insurance against accident or sickness.

(2) In any such contract and in any contract of insurance against sickness, if the insurer reserves the right to terminate it during its currency, the assured shall have the right to terminate it by giving seven days' notice to the insurer, in which case the insurer may retain the customary short rate for the time the insurance has been in force, and shall repay to the assured the residue of the premium paid by him notwithstanding any stipulation or agreement to the contrary. 2 Geo. V. c. 33, s. 172.

Maximum named in contract shall *prima facie* be payable.

173.—(1) Where the event on the occurrence of which any benefit or insurance money is payable under the contract has happened, but the amount payable is in dispute, it shall *prima facie* be the maximum amount stated or indicated in the contract.

Where maximum disputed claimant entitled to inspect insurer's books.

(2) If, when a claim accrues under a contract, the insurer offers the claimant a less sum than the maximum named or indicated in the contract, and either offers no explanation or alleges as a reason for not paying the maximum that the insurer's general contract fund or some other fund is insufficient, the claimant, on written notice to the insurer, shall be entitled, as of right, to inspect personally or by agent all books and documents relating to the contract funds generally or the fund alleged to be insufficient.

Claimant may have order from Superintendent to inspect.

(3) If the insurer refuses or neglects to afford the claimant a reasonable opportunity of inspection the claimant may file with the Superintendent an affidavit to the effect that he rightfully claims under a contract of the insurer, giving particulars sufficient to identify the contract, and that the insurer has not afforded him such opportunity of inspection, and the Superintendent may, under his hand and seal, give the claimant or his agent an order to inspect on a day named; and neglect or refusal thereafter to afford him an opportunity of inspection shall be an offence punishable in the manner provided by section 98. 2 Geo. V. c. 33, s. 173.

Insurance money, how payable.

174. When the insurance money becomes payable it shall be paid within the time mentioned in section 89; and where

the insurance money or part thereof is for the benefit, in whole or in part, of infants before paying the money to which they are entitled the insurer may require reasonable proof of the number, names and ages of such infants. 2 Geo. V. c. 33, s. 174. Proof of ages, etc., of infants.

175.—(1) If no trustee of the insurance money is named or appointed shares of infants may be paid to a trustee appointed by the Supreme Court upon the application of the widow of the assured, or of the infants or of their guardian, and such payment shall be a discharge to the insurer. 3-4 Geo. V. c. 35, s. 10, *part*. Where no trustee, payment of shares of infants.

(2) Where insurance money not exceeding \$3,000 is payable to the wife and children of the assured, and some or all of the children are infants, the court may appoint the widow of the assured, if she is the mother of such infants, as their guardian without security and such insurance money may be paid to her as such guardian. 2 Geo. V. c. 33, s. 175 (3); 3-4 Geo. V. c. 35, s. 10, *part*. Appointment of mother without security.

(3) A trustee, subject to the terms of the trust instrument, or a guardian may invest the money received in any security in which trustees under the law of Ontario may invest trust funds, and may from time to time alter, vary and transpose the investments; and where the money is held for infants may also apply all or part of the annual income arising from the share or presumptive share of each of the infants in or towards his maintenance and education in such manner as the trustee or guardian thinks fit, and may also with the approval of the Supreme Court or a Judge thereof advance to and for any of the infants, notwithstanding his minority, the whole or any part of his share for his advancement or preferment in life or on his marriage. 2 Geo. V. c. 33, s. 175 (4); 3-4 Geo. V. c. 35, s. 10, *part*. Investment of shares. Application of infants' shares.

176.—(1) If there is no person competent to receive the share of an infant or lunatic at the time of the maturity of the contract, and the insurer admits the claim or any part thereof, he shall pay such share into the Supreme Court to the credit of the infant or lunatic, and such payment shall be a sufficient discharge to the insurer for the money paid, and the money shall be dealt with as the Court may direct. 2 Geo. V. c. 33, s. 176 (1); 3-4 Geo. V. c. 35, s. 11 (1). Insurer may pay money into court.

(2) An order allowing the payment into Court shall not be necessary, but the payment shall be made with the privity of the Accountant of the Supreme Court. No order necessary.

(3) In the case of an infant the insurer shall at the time of payment into court file with the Accountant an affidavit showing the name and the date of birth of the infant. Names and ages of infants.

(4) Notice of the payment into Court shall be forthwith given by the insurer to the official guardian. Notice of payment into court.

Costs.

(5) The insurer may deduct from the share of the infant or lunatic \$5 for the costs of making the payment into Court. 2 Geo. V. c. 33, s. 176 (2-5).

Where claim admitted, but money not paid.

(6) If the insurer does not within sixty days after the claim has been admitted either pay the insurance money to some person competent to receive it or pay it into Court, the Court or a Judge thereof may upon the application of a person competent to receive the money on behalf of the infant or lunatic, order the insurance money, or any part thereof, to be paid to any person competent to receive the same or to be paid into Court to be dealt with as the Court may direct, and any such payment shall be a discharge to the insurer. 2 Geo. V. c. 33, s. 176 (6); 3-4 Geo. V. c. 35, s. 11 (2).

Death of assured abroad, payment to foreign representative.

177.—(1) Where under a contract made or by law deemed to be made in Ontario, or a contract made by a corporation having its head office or chief agency in Ontario, the insurance money is payable to the representatives of a person who at his death was domiciled or resident in a foreign jurisdiction, if no person has become his personal representative in Ontario, the money may on the expiration of two months after such death be paid to the personal representative appointed by the proper court of the foreign jurisdiction.

When contract directs payment to foreign representative.

(2) Where such a contract provides that the insurance money may be paid to the personal representative appointed by the court of the jurisdiction in which the deceased may be resident or domiciled at the time of his death, the money may be paid to such representative or according to the terms of the contract at any time after the death.

Intestacy: (without representation), payment according to foreign law.

(3) Where under such a contract the insurance money is payable to the representatives of a person who at the time of his death was domiciled or resident in a foreign jurisdiction and died intestate, the money may after the expiration of three months after such death, if no person has become his personal representative in Ontario, be paid to the person entitled according to the law of the foreign jurisdiction to receive the money and give a discharge for the same as if such money were by the terms of the contract payable in such foreign jurisdiction.

Testacy: payment according to foreign law.

(4) Where a testator domiciled or resident in a foreign jurisdiction disposes of the insurance money by a will valid according to the law of that jurisdiction such money may be paid according to the terms of the contract at any time after the death to the person entitled under such will to receive and give a valid discharge for money payable in such foreign jurisdiction.

Where guardian appointed by foreign court.

(5) Where it appears by letters of guardianship or other like document, relating to persons under disability, issued by a court in a foreign jurisdiction, or by a certificate of the

Judge under the seal of such court, that it has been shown to the satisfaction of such court that the assured at the maturity of the contract was domiciled or resident within its jurisdiction, and it also appears that security to the satisfaction of such court in respect of and for the due application and account of the money payable under the contract has been given by the guardian or other like officer appointed by such letters or document, the Supreme Court or a Judge thereof upon application for the appointment of such guardian or like officer as trustee under this section may dispense with the giving of security if it is also shown that the infants or other beneficiaries under disability reside within the jurisdiction of the foreign court, and that the trustee is a fit and proper person.

(6) This section shall apply whether the death has or has not occurred before the passing of this Act. 2 Geo. V. c. 33, s. 177. Application of section.

2. Provisions Applicable to Preferred Beneficiaries.

178.—(1) Preferred beneficiaries shall constitute a class and shall include the husband, wife, children, grand-children and mother of the assured, and the provisions of this and the following three sections shall apply to contracts of insurance for the benefit of preferred beneficiaries. Who shall constitute preferred beneficiaries.

(2) Where the contract of insurance or declaration provides that the insurance money or part thereof, or the interest thereof, shall be for the benefit of a preferred beneficiary or preferred beneficiaries such contract or declaration shall, subject to the right of the assured to apportion or alter as hereinafter provided, create a trust in favour of such beneficiary or beneficiaries, and so long as any object of the trust remains the money payable under the contract shall not be subject to the control of the assured, or of his creditors, or form part of his estate, but this shall not interfere with any transfer or pledge of the contract to any person prior to such declaration. Where trust created by the provisions of the contract for benefit of preferred beneficiaries.

(3) Where two or more beneficiaries are designated but no apportionment is made, all of them shall share equally, and where it is stated in the contract or declaration that the insurance money or any part of it is for the benefit of the wife of the assured only, or of his wife and children generally, or of his children generally, the word "wife" shall mean the wife living at the maturity of the contract and the word "children" shall include as well all the children of the assured living at the maturity of the contract, whether by his then or any former wife, as the children living at the maturity of the contract of any child of the assured who predeceased him, such last mentioned children taking the share their parent would have taken if living, and the like construction shall prevail where the insurance is effected by Insurance or any part for benefit of future wife—or wife and children.

a man while unmarried or a widower for the benefit of his future wife or his future wife and children or of his children.

Where assured has re-married after designation.

(4) Subsection 3 shall apply, whether or not the wife is designated by name; but where the wife is designated by name and predeceases him the assured may revoke or alter such designation as if the wife were not of the class of preferred beneficiaries.

Where assured unmarried or widower without issue.

(5) Where an unmarried man or a widower effects the contract or declares it to be for the benefit of his future wife, or of his future wife and children or of his children, but at maturity of the contract the assured is still unmarried, or is a widower without issue, the insurance money shall form part of his estate.

Where assured does not marry the specified beneficiary.

(6) Where an unmarried man or a widower effects or declares the contract to be for the benefit of his future wife, or future wife and children, and the intended wife is designated by name or is otherwise clearly ascertained in the contract, but the intended marriage does not take place, all questions arising on such contract shall be determined as in the case of a beneficiary not belonging to the preferred class. 2 Geo. V. c. 33, s. 178 (1-6).

Where apportionment made, but beneficiary predeceases assured.

(7) If one or more or all of the designated preferred beneficiaries, whether an apportionment has been made or not, die in the lifetime of the assured or if a sole preferred designated beneficiary dies in his lifetime, he may by a declaration provide that the share or shares of the person or persons so dying shall be for the benefit of the assured or of his estate or of any other person, whether or not such person belongs to the preferred class; and in the absence of any such declaration the share or shares of the person or persons so dying shall be for the benefit, in equal shares, of the survivor or survivors of such designated preferred beneficiaries, except where the person so dying is a child of the assured, and leaves a child or children surviving him, in which case his share and any share to which he would have become entitled if he had survived shall be for the benefit of his child or children, in equal shares, and if there is no such surviving beneficiary and no such child entitled to take, the insurance shall be for the benefit in equal shares, if there is more than one person entitled, of the wife and children of the assured living at his death and the child or children of any deceased child who shall be entitled to the share which the parent if then living would have taken, and if there is no surviving wife, child or grandchild the insurance money shall form part of the estate of the assured. 2 Geo. V. c. 33, s. 178 (7); 3-4 Geo. V. c. 35, s. 12.

Assured may vary benefit or beneficiary.

179.—(1) The assured may by a declaration vary a contract or declaration previously made so as to restrict, extend, transfer or limit the benefits of the insurance to any one or

more persons of the class of preferred beneficiaries to the exclusion of any or all others of the class or wholly or partly to one or more for life, or any other term, with remainder to any other or others of the class, but the assured shall not except as provided by subsection 7 of section 178 revoke or alter any disposition made under the provisions of this Act in favour of any one or more of the preferred class except in favour of some one or more persons within the preferred class so long as any of the persons of the preferred class in whose favour the contract or declaration is made are living.

(2) Where it is proved to the satisfaction of the executive officers of a friendly society that a preferred beneficiary is leading a criminal or an immoral life, and there is no other person to whom the assured may under the provisions of this Act divert the benefit, the assured may, with the consent of such executive officers, by a declaration, provide that all right, title and interest of such beneficiary is forfeited and annulled; and thereupon such right, title and interest shall be forfeited and annulled accordingly; and the assured may then or thereafter make a new appointment in accordance with the provisions of this Act and the lawful rules of the society.

Where beneficiary under friendly society contract is leading a criminal or immoral life.

(3) Where the contract is made by an insurer other than a friendly society, upon petition, and upon the like facts as in subsection 2 mentioned being proved to the satisfaction of the Supreme Court or a Judge thereof the Court or Judge may make an order annulling the benefit and granting such other relief as under the circumstances appears proper.

Case of other contracts.

2 Geo. V. c. 33, s. 179.

180.—(1) Where the assured finds himself unable to continue to meet the premiums he may surrender the contract to the insurer and accept in lieu thereof a paid-up contract for such sum as the premiums paid would represent, payable as the money insured by the original contract, if not surrendered, would have been payable; and the insurer may accept the surrender and issue the paid-up contract notwithstanding any declaration in favour of a preferred beneficiary.

Power to convert into paid-up policy.

(2) Notwithstanding the designation of a preferred beneficiary the assured may, from time to time, borrow from the insurer or from any other person on the security of the contract such sums as may be necessary and shall be applied to keep it in force, and on such terms and conditions as may be agreed on; and the sums so borrowed, with such interest as may be agreed on, shall be a first lien on the contract and on all moneys payable thereunder.

Power to borrow on the policy in order to meet premiums.

(3) Nothing in this section shall authorize anything to be done to the prejudice of a beneficiary for value.

Saving beneficiary for value.

2 Geo. V. c. 33, s. 180.

Assured
may direct
application
of bonuses
and profits.

181.—(1) Notwithstanding that the insurance money may be payable to preferred beneficiaries or to a trustee for preferred beneficiaries the assured may, in writing, require the insurer to pay the bonuses or profits, or portions thereof, accruing under the contract to the assured, or to apply the same in reduction of the annual premiums payable by him in such way as he may direct or to add such bonuses or profits to the benefit; and the insurer shall pay or apply such bonuses or profits as the assured directs and according to the rates and rules established by the insurer; but the insurer shall not be obliged to pay or apply such bonuses or profits in any manner contrary to the stipulations in the contract or the application therefor.

Surrender
of contract.

(2) Where a contract of insurance is made or declared to be for the benefit of one or more preferred beneficiaries and all of them are of full age they and the assured may surrender the contract or may assign the same either absolutely or by way of security.

Power of
assured and
adults to
deal with
policy.

(3) Where such preferred beneficiaries include children or grandchildren it shall be sufficient so far as their interests are concerned if all then living are of full age and join in the surrender or assignment.

Who deemed
person
entitled to
benefit of
policy.

(4) Where a person is entitled to a benefit only in the event of the death of another person named as a beneficiary it shall be sufficient for the purposes of this section if such last-mentioned person joins in the surrender or assignment. 2 Geo. V. c. 33, s. 181.

Declaration
changing
beneficiaries.
not affected
by previous
trust.

182. A declaration changing the preferred beneficiaries or altering, apportioning or varying the benefits of the insurance may be made notwithstanding that by the contract of insurance or a previous declaration the insurance money is payable to a trustee for preferred beneficiaries. 2 Geo. V. c. 33, s. 182.

3. Additional provisions applicable to Friendly Societies only.

Application
of sections
184 to 190.

183. The provisions contained in sections 184 to 190 shall apply only to registered friendly societies. 2 Geo. V. c. 33, s. 183.

Filing and
certifying
rules.

184.—(1) Upon the incorporation of a society a duplicate or a copy of the rules thereof filed with the Registrar and certified by him shall be filed with the Provincial Registrar.

Officially
certified
rules.

(2) A copy certified by the Registrar of any revision or amendment of the rules directed or assented to by him shall be filed in the office of the Provincial Registrar.

(3) The rules and any revision or amendment thereof so certified shall, notwithstanding the declaration or other instrument filed under any general or special Act, be deemed to be the rules in force on and after the date of the certificate until a subsequent revision or amendment is in like manner certified and filed, and so from time to time, and shall be binding and obligatory upon all members of the society.

Certified rules to be those in force.

(4) A copy of all rules of a society relating to its insurance contracts and to the management and application of its insurance funds shall be delivered by the society to every person on demand on payment of twenty-five cents.

Rules deliverable on demand.

(5) If an officer or agent of a society, with intent to mislead or defraud, gives to any person a copy of rules other than the rules then in force on the pretence that the same are the rules then in force, he shall incur a penalty of not less than \$20 nor more than \$200 recoverable under *The Ontario Summary Convictions Act*, and in the case of a second or any subsequent conviction shall be liable to imprisonment for any term not exceeding six months. 2 Geo. V. c. 33, s. 184.

Fraudulent delivery.

Rev. Stat. c. 90.

185.—(1) Where by the constitution and rules of a society provision is made for the payment of an ascertained or ascertainable sum to a member of the society in the event of his becoming totally disabled, or of his reaching a stated age, or upon the concurrence of both events, whether such provision is combined with other life insurance or not, such society may with the approval of the Registrar so amend its constitution and rules as to provide for the payment of such sum in equal consecutive annual instalments without interest, the payment of such instalments to be completed within a period not exceeding ten years from the happening of the event.

Substitution of instalments for gross payment.

(2) All such amendments which have heretofore been or which may hereafter be made by any society pursuant to the provisions of the constitution and rules shall be valid and binding upon all its members and upon all their beneficiaries and legal personal representatives and upon every one entitled, notwithstanding anything to the contrary in the instrument of incorporation of the society or the previous provisions of its constitution and rules.

Amendments of rules to that intent validated.

(3) If a member of such society dies after becoming totally disabled or reaching the stated age, but before the payment of all instalments, the instalments unpaid shall form part of the insurance money or benefits payable upon the death of such member.

When assured dies before receiving all instalments.

(4) No unmatured policy or contract of insurance shall create any claim or liability against the society while a going society, or against the estate of the society in a winding up or liquidation under this Act, but in a winding up or

Unmatured policies as liabilities.

liquidation the person assured or beneficiary for value under such unmaturing policy or contract shall be entitled to share in the surplus assets of the society. 2 Geo. V. c. 33, s. 185.

Holding meetings of friendly societies in another Province.

186. Notwithstanding anything to the contrary contained in its instrument of incorporation, or in any Act under which it was incorporated, any society, when so authorized by its constitution and rules, may hold its meetings annually or otherwise at any place it may from time to time select in Ontario or in any other Province of Canada in which it has a subordinate lodge or branch. 2 Geo. V. c. 33, s. 186.

Limitation of member's liability in friendly society.

187.—(1) The liabilities of a member under his contract shall at any date be limited to the assessments, fees and dues which became payable within the preceding twelve months and of which at such date notice had been given in accordance with the constitution and rules of the society.

Withdrawal of member.

(2) A member may at any time withdraw from the society by delivering or sending by registered post to the society notice in writing of his intention to withdraw and paying or tendering the assessments, fees and dues mentioned in subsection 1.

Release from liability.

(3) After such withdrawal the member shall become thereby released from all further liability under his contract.

Subject to rules.

(4) This section shall be subject to the provisions of any rules to the contrary assented to by the Registrar and filed with the Provincial Registrar as hereinbefore provided. 2 Geo. V. c. 33, s. 187.

Notice before forfeiture of benefit.

188.—(1) No forfeiture or suspension shall be incurred by reason of any default in paying any contribution or assessment, except such as are payable in fixed sums and at fixed dates, until after notice to the member stating the amount due by him, and that in case of default of payment within a reasonable time, not less than thirty days, to the proper officer, who shall be named in such notice, his interest or benefit will be forfeited or suspended, and default has been made by him in paying his contributions or assessment in accordance with such notice.

"Fixed dates."

(2) "Fixed dates" in subsection 1 shall include any numbered day, or any Monday, Tuesday, or as the case may be, numbered, alternate or recurring, of a stated month or months.

Saving rights to re-instatement.

(3) Where under the constitution or rules or by-laws of the society a defaulting member is entitled to be reinstated on payment of arrears, after a stated number of days' default, this section shall not prejudice the rights of such member. 2 Geo. V. c. 33, s. 188.

189.—(1) Where it is stipulated that the benefit of the contract shall be suspended or reduced or forfeited for any other reason than for non-payment of money such condition shall not be valid unless it is held to be just and reasonable under the circumstances of the case. Conditions of forfeiture restricted.

(2) In any contract of which total abstinence from intoxicating liquors is made an express condition, such condition shall be deemed to be just and reasonable. 2 Geo. V. c. 33, s. 189. Condition as to total abstinence.

190. Any notice required to be given to a member for any purpose of this Act or of the rules of the society may be effectually given if written or printed notice is delivered, or is sent by registered post to the member, or is left at his last known place of abode or of business. 2 Geo. V. c. 33, s. 190. How notice may be given to members.

CONTRACTS OF FIRE INSURANCE.

General Provisions.

191.—(1) Every company licensed and registered for the transaction of fire insurance may, within the limits and subject to the restrictions prescribed by the license and registry, insure or reinsure any property in which the assured has an insurable interest against damage or loss by fire, lightning, or explosion, whether the same happens by accident or any other means except that of design on the part of the assured. What rights may be insured against.

(2) A company registered under this Act for the transaction of fire insurance, and insuring any mercantile or manufacturing risk, may either by the same or by a separate contract insure the same risk against loss or damage arising from defects in or injuries to sprinklers or other fire extinguishing appliances. 2 Geo. V. c. 33, s. 191. Loss from defects in or injuries to fire appliances.

192.—(1) Contracts shall not exceed the term of three years; and the insurance of mercantile and manufacturing risks shall, if on the cash system, be for a term not exceeding one year, but contracts of mutual fire insurance by any mutual or cash-mutual fire insurance company incorporated before the first day of June, 1904, may be for any term not exceeding four years. Duration of contracts.

(2) Any contract made for one year or any shorter period on the premium note system, or for three years or any shorter period on the cash system may be renewed at the discretion of the directors by renewal receipt instead of by policy on the assured paying the required premium, or in the case of a contract on the premium note system by giving a new premium note; and any payment by cash or premium note for renewal shall be made at or before the end of the period for Renewing contracts by receipt or by new premium note.

which the policy was granted or renewed, otherwise the policy shall be null and void.

New note by assignee of policy on premium note plan.

(3) In case of an assignment of a policy on the premium note plan a new premium note made by the assignee shall be taken, and the former note, after all arrears are paid, shall be surrendered by the company. 2 Geo. V. c. 33, s. 192.

What to appear on face of fire policy.

193.—(1) On the face of a policy of fire insurance there shall appear the name of the insurer, the name of the assured, the name of the person or persons to whom the insurance money is payable, the premium or other consideration for the insurance, the subject matter of the insurance, the maximum amount or amounts which the insurer contracts to pay, the event on the happening of which payment is to be made and the term of the insurance.

Co-insurance.

(2) A policy may contain a co-insurance clause, but any such policy shall have printed or stamped across its face in large type and in red ink the words, "This policy contains a Co-insurance Clause," and if these words are not so printed or stamped such clause shall not be binding on the assured.

Other terms not binding unless held reasonable.

(3) Any stipulation or term of the contract, other than those above stated, if held by a Court or a Judge before whom a question relating thereto is tried to be not just and reasonable, shall not be binding on the assured. 2 Geo. V. c. 33, s. 193.

Statutory Conditions and Provisions Relating Thereto.

Statutory conditions to be part of every policy unless varied.

194. The conditions set forth in this section shall, as against the insurer, be deemed to be part of every contract in force in Ontario with respect to any property therein or in transit therefrom or thereto, and shall be printed on every policy with the heading *Statutory Conditions*, and no stipulation to the contrary, or providing for any variation, addition or omission, shall be binding on the assured unless evidenced in the manner prescribed by sections 195 and 196. 2 Geo. V. c. 33, s. 194.

Statutory Conditions.

DIVISION I.

Misrepresentation or omission.

1. If any person insures property, and causes the same to be described otherwise than as it really is to the prejudice of the company, or misrepresents or omits to communicate any circumstance which is material to be made known to the company, in order to enable it to judge of the risk it undertakes, such insurance shall be of no force in respect to the property in regard to which the misrepresentation or omission is made.

2. Any change material to the risk, and within the control or knowledge of the assured, shall avoid the policy as to the part affected thereby, unless the change is promptly notified in writing to the company or its local agent; and the company when so notified may return the unearned portion, if any, of the premium which has been paid for the unexpired period and cancel the policy, or may demand in writing an additional premium, which the assured shall, if he desires the continuance of the policy, forthwith pay to the company; and if he neglects to make such payment forthwith after receiving such demand, the policy shall be no longer in force.

When a change as to risk shall avoid a policy. Notice of change, etc.

3. If the property insured is assigned without a written permission indorsed hereon by an agent of the company duly authorized for such purpose, the policy shall thereby become void; but this condition does not apply to change of title by succession or by the operation of the law, or by reason of death.

Change of property.

4. Money, books of account, securities for money, and evidences of debt or title, are not insured.

Money, securities, etc.

5. If the assured now has any other insurance on any property covered by this policy which is not disclosed to the company or hereafter effects any other insurance thereon without the written assent of the company, he shall not be entitled to recover in excess of sixty per cent. of the loss or damage in respect of such property; but if for any fraudulent purpose the assured does not disclose such other insurance to the company this policy shall be void.

Prior or subsequent insurance.

- (a) If within two weeks after written notice of such other insurance or of any intended insurance, or after that time and before such other insurance is effected, the company does not dissent by notice in writing to the assured, it shall be deemed to have assented thereto.

6. The company is not liable for the losses following, that is to say:

When company not to be liable.

- (a) For the loss of property owned by any other person than the assured, unless the interest of the assured is stated in or upon the policy;
- (b) For loss caused by invasion, insurrection, riot, civil commotion, military or usurped power;
- (c) Where the insurance is upon buildings or their contents—for loss caused by the want of good and substantial brick or stone or cement chimneys; or by ashes or embers being deposited, with the knowledge and consent of the assured, in wooden vessels; or by stoves or stovepipes being, to the knowledge of the assured, in an unsafe condition or improperly secured;

Liability in case of non-ownership.

Riot, invasion, etc.

Chimneys, ashes, stoves.

Goods to which fire heat is being applied.

(d) For loss or damage to goods destroyed or damaged while undergoing any process in or by which the application of fire heat is necessary;

Repairs by carpenters, etc.

(e) For loss or damage occurring to buildings or to their contents while the buildings are being altered or repaired by carpenters, joiners, plasterers or other workmen, and in consequence thereof, unless permission to execute such repairs has been previously granted in writing, signed by a duly authorized agent of the company, but fifteen days are allowed in each year for incidental alterations or repairs, without such permission;

Gunpowder, coal oil, etc.

(f) For loss or damage occurring while petroleum, or rock, earth or coal-oil, camphene, gasoline, burning fluid, benzine, naphtha or any liquid products thereof, or any of their constituent parts (refined coal oil for lighting purposes only, not exceeding five gallons in quantity, or lubricating oil not being crude petroleum nor oil of less specific gravity than required by law for illuminating purposes, not exceeding five gallons in quantity, excepted), or more than twenty-five pounds weight of gunpowder is or are stored or kept by the assured or to his knowledge by any other person under his control, in the building insured or containing the property insured, unless permission is given in writing by the company.

What constitutes written notice.

7. Any written notice to the company may be delivered at the head office or chief agency of the company in Ontario, or sent by registered post addressed to the company, its manager or agent, at such head office or chief agency or may be delivered or sent by registered post to an authorized agent of the company.

DIVISION II.

Policy sent to be deemed as applied for unless variance pointed out.

8. After application for insurance it shall be deemed that any policy sent to the assured is intended to be in accordance with the terms of the application, unless the company points out in writing the particulars wherein the policy differs from the application.

Apportionment of loss among insurers.

9. In the event of there being any other insurance on property herein described at the time of the happening of any loss or damage in respect thereof, then this company shall be liable only for the payment of a rateable proportion of such loss or damage or of such amount as the assured shall be entitled to recover as provided by Condition No. 5.

Explosion. Lightning.

10. The company will make good loss or damage caused by the explosion of coal or natural gas in a building not forming part of gas works, and loss or damage by fire caused by

any other explosion or loss or damage caused by lightning, whether fire ensues therefrom or not, but if dynamos, excitors, lamps, switches, motors, or other electrical appliances or devices are insured any loss or damage to them caused by lightning on other electrical currents, artificial or natural, is expressly excluded, and the company is liable only for such loss or damage to them as may occur from resultant fire originating outside the machines themselves.

11. The insurance may be terminated by the company by giving seven days' notice to that effect, and, if on the cash plan, by tendering therewith a rateable proportion of the premium paid, for the unexpired term, calculated from the termination of the notice, and the policy shall cease after such notice or notice and tender as the case may be, and the expiration of the seven days. Insurance terminable on notice.

12. The insurance, if on the cash plan, may also be terminated by the assured by giving written notice to that effect to the company or its authorized agent, in which case the company may retain the customary short rate for the time the insurance has been in force, and shall repay to the assured the balance of the premium paid. Termination by assured.

13. No condition of the policy, either in whole or in part, shall be deemed to have been waived by the company, unless the waiver is clearly expressed in writing, signed by an agent of the company. Waiver of condition.

14. Any officer or agent of the company, who assumes on behalf of the company to enter into any written agreement relating to any matter connected with the insurance, shall be deemed *prima facie* to be the agent of the company for the purpose. Officers assuming to agree in writing to be deemed agents.

15. Any written notice to the assured may be by letter delivered to the assured or by registered letter addressed to him at his last post office address notified to the company or where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received. Written notice, how sent.

DIVISION III.

16. Where property insured is only partially damaged, no abandonment of the same will be allowed unless by the consent of the company or its agent; and in case of removal of property to prevent damage thereto, the company will contribute to the loss and expenses attending such act of salvage proportionately to the respective interests of the company or companies and the assured; and that part of this policy in excess of its proportion of any loss and of the value of the property remaining in the original location, shall, for the ensuing seven days only or for the unexpired term of the policy if less than seven days, cover the property so removed. Partial damage—salvage.

in the new location or locations in the proportion that the value in any one such new location bears to the value in all such new locations.

Proof of loss when payable to other than assured.
Directions to be observed on making claim.

17. Subject to condition 19 proof of loss must be made by the assured, although the loss is payable to a third person.

18. Any person entitled to make a claim under this policy shall

(a) Forthwith after loss give notice in writing to the company;

(b) Deliver, as soon after as practicable, as particular an account of the loss as the nature of the case permits;

(c) Furnish therewith a statutory declaration declaring,
That the account is just and true;
When and how the loss occurred, and if caused by fire how the fire originated, so far as the declarant knows or believes;
That the loss did not occur, or if caused by fire, that the fire was not caused through any wilful act or neglect, or the procurement, means or contrivance of the assured;
The amount of other insurances;
All liens, and incumbrances on the subject of insurance;
The place where the property insured, if movable, was deposited at the time of the fire;

(d) If required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers, verified by a statutory declaration in support of his claim, and furnish copies of the written portion of all policies, separate as far as reasonably may be the damaged from the undamaged property and exhibit for examination all that remains of the property which was covered by the policy. The evidence furnished under this clause shall not be considered proofs of loss within the meaning of condition 22.

Proof of loss may be made by agent.

19. The above proofs of loss may be made by the agent of the assured, in case of the absence or inability of the assured himself to make the same, such absence or inability being satisfactorily accounted for, or in the like case or if the assured refuses to do so, by a person to whom any part of the insurance money is payable.

False statement or fraud vitiates claim.

20. Any fraud or false statement in any statutory declaration, in relation to any of the above particulars, shall vitiate the claim of the person making the declaration.

21. If any difference arises as to the value of the property insured, the property saved, or the amount of the loss, such value and amount and the proportion thereof (if any) to be paid by the company shall, whether the right to recover on the policy is disputed or not, and independently of all other questions, be submitted to the arbitration of some person to be chosen by both parties, or if they cannot agree on one person, then to two persons, one to be chosen by the party assured and the other by the company, and a third to be appointed by the persons so chosen, or on their failing to agree, then by a Judge of the County or District Court of the County or District in which the loss has happened; and such reference shall be subject to the provisions of *The Arbitration Act*; and the award shall, if the company is in other respects liable, be conclusive as to the amount of the loss and the proportion to be paid by the company; where the full amount of the claim is awarded the costs shall follow the event; and in other cases all questions of costs shall be in the discretion of the arbitrators.

Arbitration
in case of
differences.

Rev. Stat. c. 65.

22. The loss shall be payable in sixty days after the completion of the proofs of loss, unless a shorter period is provided for by the contract of insurance.

Loss, when
payable.

23. The company, instead of making payment, may repair, rebuild or replace, within a reasonable time, the property damaged or lost, giving notice of their intention within fifteen days after receipt of the proofs herein required.

Company
may replace
instead of
paying.

24. Every action or proceeding against the company for the recovery of any claim under or by virtue of this policy, shall be absolutely barred, unless commenced within one year next after the loss or damage occurs. 2 Geo. V. c. 33, s. 194.

Actions to be
brought
within one
year.

195. If the insurer desires to vary the statutory conditions or to omit any of them, or to add any new condition, there shall be added immediately after such conditions words to the following effect, which with any such variation, addition or reference to omissions, shall be printed in conspicuous type and in red ink.

Variations,
how indi-
cated.

VARIATIONS IN CONDITIONS.

"This policy is issued on the above Statutory Conditions with the following variations, omissions and additions, which are, by virtue of *The Ontario Insurance Act*, in force so far only as they shall be held to be just and reasonable to be exacted by the company." 2 Geo. V. c. 33, s. 195.

196. No such variation, omission or addition, unless the same is distinctly indicated and set forth in the manner above prescribed, shall be binding on the assured; but on the contrary, the policy shall, as against the insurer, be subject to the statutory conditions only. 2 Geo. V. c. 33, s. 196.

Variations
not binding
unless
clearly
indicated.

Variations to be just and reasonable.

197. Any such variation, omission or addition, unless held to be just and reasonable, shall be null and void. 2 Geo. V. c. 33, s. 197.

Insurers may pay claims void under statutory conditions.

198. It shall be optional with the insurer to pay or allow claims, wholly or in part, which are void under any statutory condition. 2 Geo. V. c. 33, s. 198.

Where failure to make proof is caused by accident, etc.

199. Where, by reason of necessity, accident or mistake, any condition of a policy of insurance on property in Ontario as to the proof to be given to the insurer after the occurrence of the event insured against has not been strictly complied with, or where after a statement or proof of loss has been given in good faith by or on behalf of the assured, in pursuance of any condition of such policy, the insurer through its agent or otherwise objects to the loss upon other grounds than for imperfect compliance with such condition or does not within a reasonable time after receiving such statement or proof notify the assured in writing that it is objected to, stating the particulars in which the same is alleged to be defective, and so from time to time, or where for any other reason it is held to be inequitable that the insurance should be deemed void or forfeited by reason of imperfect compliance with such condition no objection to the sufficiency of such statement or proof or amended or supplemental statement or proof, as the case may be, shall be allowed as a defence by the insurer or a discharge of his liability on such policy wherever entered into. 2 Geo. V. c. 33, s. 199.

Insurer's right of entry after loss.

200.—(1) After any loss or damage to insured property the insurer by a duly accredited agent shall have an immediate right of entry and access sufficient to enable him to survey and examine the property and to make an estimate of the loss or damage, but the insurer shall not be entitled to the disposition, control, occupation, or possession of the insured property, or of the remains or salvage thereof, unless the insurer undertakes reinstatement or accepts abandonment of the property.

Duty of assured after loss.

(2) After any loss or damage to insured property it shall be the duty of the assured when and as soon as it is practicable to secure the insured property from damage, or from further damage, and to separate as far as reasonably may be the damaged from the undamaged property, and to notify the insurer when such separation has been made, and thereupon the insurer shall be entitled to entry and access sufficient to enable him to make an appraisalment or particular estimate of the loss or damage.

Proceedings in lieu of arbitration.

(3) The insurer and the assured instead of proceeding by arbitration under statutory condition 21 may at any time after the loss or damage make a joint survey, examination, estimate or appraisalment of the loss or damage, in which

case the insurer shall be deemed to have waived all right to make a separate survey, examination, estimate or appraisal thereof. 2 Geo. V. c. 33, s. 200.

201. Where proofs of loss are made by any person other than the assured the insurer shall be entitled to have the assured examined under oath touching the loss or damage before the Judge of the County or District Court of the County or District in which the assured resides, and the procedure shall be the same as that upon an examination for discovery in an action. 2 Geo. V. c. 33, s. 201.

Examination
of assured
for discovery.

(With regard to investigation of fires see *The Coroners Act*, R.S.O. c. 92.)

DUTIES OF THE SUPERINTENDENT.

202.—(1) The Superintendent shall personally or by deputy visit the head office or chief agency in Ontario of every company licensed under this Act, at least once in every year, and shall carefully examine the condition and affairs of the company. 2 Geo. V. c. 33, s. 202 (1); 3-4 Geo. V. c. 35, s. 13 (1).

Duties of
Superin-
tendent.

(2) Instead of visiting the head office or chief agency the Superintendent may require the company to produce and thereupon the company shall produce its books and papers at the county or district town of the county or district in which the head office or chief agency is located, or at such other convenient place as the Superintendent directs.

Inspection
of books
and papers.

(3) The officers of the company who have custody of the books shall be entitled to be paid by the company for the actual expenses of such attendance.

Expenses of
officers.

(4) The Superintendent shall from such inspection prepare and lay before the Minister an annual report of the condition of every company's business as ascertained from such inspection, and such report shall be printed and published forthwith after the completion thereof.

Annual
report.

(5) Officers of the company shall cause their books to be open for the examination of the Superintendent, and shall facilitate the examination so far as may be in their power; and the Superintendent may examine under oath any officer or agent of the company as to its business.

Powers of
Superin-
tendent.

(6) Where a special examination has been made a special written report stating the Superintendent's opinion of the condition and financial standing of the company, and all other matters which it is desirable should be made known shall be made to the Minister. 2 Geo. V. c. 33, s. 202 (2-6).

Report of
Superin-
tendent.

(7) Every director, manager, officer, agent, collector, auditor or employee of a company who knowingly makes or omits

Entries,
untrue or
omitted.

Access to
books and
papers.

assists in making any untrue entry in any of the company's books, or who does not make any proper entry therein, or does not exhibit or allow the same to be inspected and extracts to be taken therefrom shall be guilty of an offence, and punishable in the manner provided by section 96. 2 Geo. V. c. 33, s. 202 (7); 3-4 Geo. V. c. 35, s. 13 (2).

Provision if
company
appears
unsafe.

203.—(1) If at any time it appears to the Superintendent that the assets of a company are insufficient to justify its continuance in business, or that it is unsafe for the public to effect insurance with the company, he shall make a special report on its affairs to the Minister.

Suspending
license of
company.

(2) If after consideration of the report and such notice to the company as the Minister deems reasonable, and such further inquiry, if any, as he may deem proper, the Minister reports to the Lieutenant-Governor in Council that he agrees with the report of the Superintendent, the Lieutenant-Governor in Council may suspend or cancel the license of the company, and in case of suspension it shall not be lawful for the company thereafter to transact any business in Ontario until the suspension is removed by the Lieutenant-Governor in Council.

Notice of
suspension
of license.

(3) Notice of the suspension or cancellation of the license shall be published in the *Ontario Gazette*; and thereafter any person transacting any business on behalf of the company, except for winding up its affairs under this Act, shall be deemed to have contravened section 98. 2 Geo. V. c. 33, s. 203.

Examination
of company's
affairs.

204. The Superintendent with the approval of the Minister may cause abstracts to be prepared of the books and vouchers of a company and a valuation to be made of its assets and liabilities; and the cost thereof upon the certificate of the Superintendent approved by the Minister shall be paid by the company. 2 Geo. V. c. 33, s. 204.

VOLUNTARY LIQUIDATION.

Provincial Insurance Companies.

Notice
previous to
liquidation.

205.—(1) Where a Provincial Company other than a Dominion licensee proposes to go into voluntary liquidation, at least one month's notice shall be given to the Minister and to the Superintendent, and shall also be published by the company in two consecutive issues of the *Ontario Gazette* and in one or more newspapers if the Superintendent so requires.

Contents.

(2) The notice shall state the date at which contracts are to cease to be taken by the company, also the name and address of the company's liquidator, or the intention of the

company to apply on a stated day for the appointment of a liquidator.

(3) On the winding up of a Provincial Mutual or Cash-Mutual Fire Insurance Company, after the notice has been given, the directors may, out of the reserve or surplus funds, reinsure the unexpired contracts for which premiums or premium notes have been taken with a company registered under this Act and approved by the Minister. Disposal of reserve at winding up of company.

(4) Where any company is wound up each person contracted with on the cash plan shall be entitled to a refund from the company of the unearned proportion of the cash premium calculated from the date at which the company, according to the notice, ceased to undertake contracts; but this shall not affect any other remedy which such person may have against the company. Unearned premiums.

(5) Every liquidator shall forthwith give such bonds or securities for his fidelity as may be required of a receiver under section 214; and in case of dispute the Master upon motion of any creditor or person interested, or of the Superintendent, shall determine the kind and amount of such bonds or securities. Security by liquidators.

(6) The bonds or securities shall be made and deposited as provided by subsection 7 of section 214. Deposit of security.

(7) Every such liquidator, until the affairs of the company are wound up and the accounts are finally closed, shall within seven days after the close of each month file with the Court or other authority appointing him, and also with the Superintendent, detailed schedules showing, in such forms as may be prescribed, receipts and expenditures, assets and liabilities, and he shall, whenever so required by the authority appointing him or by the Superintendent exhibit the company's books and vouchers, and furnish such other information respecting the company's affairs as may be required; and any receiver, liquidator or assignee who does not furnish such information shall for each offence incur a penalty of not less than \$50 and not more than \$200, and shall also be liable to be removed. 2 Geo. V. c. 33, s. 205. Monthly statements by liquidator.

Friendly Societies, or the Insurance Funds thereof.

206.—(1) A registered Provincial friendly society or any insurance fund thereof, may be voluntarily wound up after resolution (hereinafter called the winding-up resolution) passed at a general meeting, ordinary or special, after at least one month's notice of such intended resolution. Resolution for winding up.

(2) The resolution when assented to by the Registrar and filed with the Provincial Registrar as provided by subsection 2 of section 184 shall be binding on all the members of the society. When binding.

Transfer to
another
corporation.

(3) The resolution may provide for the transfer of the liabilities and assets of the society or of the fund to some other corporation.

When
liquidator
to be
appointed.

(4) Where there are assets to be realized, distributed, disposed of or dealt with the winding-up resolution shall appoint a liquidator, and shall fix the amount of the security to be given by him, which shall be sufficient for the purposes of the liquidation, and shall state the amount and form of his compensation.

Committee
of inspection.

(5) Unless otherwise provided in the winding-up resolution the then executive officers, other than such one of them, if any, who is appointed liquidator, shall act as a committee of inspection and shall audit the liquidator's accounts at least once a month until his accounts are closed, and shall certify their audit.

Documents
to be filed
with Registrar.

(6) Preliminary to any winding-up or transfer under this section there shall be filed with the Registrar a statement made by one or more of the executive officers declaring upon oath the facts and circumstances of the case, and there shall be annexed to the statement a true copy of the winding-up resolution and also a financial statement showing in such form as shall be required by the Registrar the liabilities and assets of the society or of the fund, and such other information shall be furnished from time to time as the Registrar may require.

Liquidator's
bonds and
accounts.

(7) The provisions of subsections 5, 6 and 7 of section 205 shall apply to a liquidator under this section.

Resolution
for distribution
of endowment
fund.

(8) Where endowment or expectancy insurance is transacted and there exists an endowment fund separate and distinct from the life insurance fund then, by a resolution duly passed at a general meeting, ordinary or special, after at least one month's notice of such intended resolution, the society may determine that the endowment or expectancy insurance shall be discontinued, and that the endowment or expectancy fund shall be distributed *pro rata* among the members then in good standing who are contributors to such fund according to the total contribution of each member.

Distribution
of fund,
effect of.

(9) After the resolution has been assented to and filed as provided in subsection 2 the executive officers may proceed to ascertain the persons entitled to rank upon the fund, and may distribute the fund among those so entitled; and such distribution shall discharge the society and all executive officers thereof from all further or other liability in respect of such fund and of the endowment or expectancy contracts undertaken by the society.

Conversion
into life
insurance
fund.

(10) If all the members interested in the endowment or expectancy fund are also interested as holders of life insurance contracts the general meeting instead of determining

that the endowment or expectancy fund shall be distributed may determine that such fund shall be converted into or merged in a life insurance fund; and after the resolution has been assented to and filed as provided in subsection 2 the endowment or expectancy fund shall become and be a life insurance fund.

(11) After the passing of the resolution mentioned in subsections 8 or 10 the society shall not undertake or transact any endowment or expectancy insurance. 2 Geo. V. c. 33, s. 206. No endowment insurance to be thereafter transacted.

General Provisions as to Voluntary Liquidation.

207.—(1) In any winding-up, transfer or dissolution under the next preceding two sections, if any doubt, difficulty or dispute arises as to any matter the Superintendent, the Registrar, the liquidator, any member of the committee of inspection, or any person interested may apply to the Master who shall finally dispose of the matter. Master to finally dispose of doubts, difficulties or disputes.

(2) The Master may on the application of any such person remove the liquidator and appoint another liquidator, or do any other matter or thing which the Court, Judge, or Master might do in a winding-up under sections 211 to 231, or may by order remove into his office the winding-up, transfer or dissolution which shall thereafter proceed as if begun under those sections. 2 Geo. V. c. 33, s. 207. Powers of Master on application.

208. The duration of any winding-up under any of the three next preceding sections shall not be prolonged beyond one year from its commencement except for special and urgent cause shown to the satisfaction of the Minister. 2 Geo. V. c. 33, s. 208. Duration of winding-up.

209. For the purpose of any application or other proceeding under any of the four next preceding sections, it shall be sufficient to entitle the proceeding in the matter of this Act and of the insurance corporation or fund concerned; and at least two clear days' notice shall be given unless otherwise directed by the Master. 2 Geo. V. c. 33, s. 209. How proceedings may be entitled. Notice.

210. Notwithstanding anything in this Act the Superintendent may by writing under his hand and seal of office, renew or extend the registry of any Provincial Insurance Corporation for the purpose of its winding up; and during the continuance of such registry or renewed or extended registry, sections 211 to 231 shall not apply to the corporation; but upon the expiry without renewal or upon the revocation or cancellation of such registry those sections shall apply unless the winding-up of the corporation has previously been completed. 2 Geo. V. c. 33, s. 210. Renewing or continuing registry for winding up purposes.

COMPULSORY LIQUIDATION.

Application
of sections
212 to 231.

211.—(1) Sections 212 to 231 shall apply to Provincial insurance corporations other than those being wound up under the six next preceding sections, and other than licensees of the Dominion of Canada within the meaning of section 69.

“Corporation,”
restriction of
meaning of.

(2) Where the corporation is not constituted exclusively or chiefly for insurance purposes, and the insurance branch and fund are completely severable from every other branch and fund of the corporation, the word “corporation” for the purposes of sections 212 to 231 shall mean only the insurance branch of the corporation. 2 Geo. V. c. 33, s. 211.

Commence-
ment of
winding up.

212.—(1) The winding-up shall be deemed to commence at the beginning of the day on which the registry of the corporation expired or was cancelled, and where the corporation is constituted for the transaction of insurance exclusively its corporate powers shall thereupon cease and determine except for the sole purpose of winding up its affairs.

Effect of
winding up.

(2) After the date of the commencement of the winding up any transfer of shares unless made by authority of the Supreme Court, and any alteration in the status of members or shareholders of the corporation shall be void; and no action or other proceeding against the corporation shall be commenced or proceeded with except by leave of the Court; and every attachment, sequestration, distress or execution put in force against the property of the corporation shall be void.

Cesser of
contracts
of employ-
ment.

(3) All contracts of employment entered into by the corporation shall *ipso facto* cease and determine at the commencement of the winding up.

No marshal-
ling of
assets, nor
preference
of creditors
except as
enacted.

(4) All the funds, assets and property of the corporation or of any liquidating branch or lodge thereof shall be deemed general assets of the corporation, branch or lodge, respectively, for the payment of all debts thereof, and shall not be applied to the payment of any particular debts, preferentially or exclusively, except as otherwise herein expressly provided. 2 Geo. V. c. 33, s. 212.

Events in
which
liquidator
or officer of
corporation
becomes
interim
receiver.

213.—(1) Upon notice given by the Superintendent of the corporation's registry being cancelled under subsection 1 of section 87, or where a corporation neglects to register or renew its registry, the liquidator in voluntary winding-up proceedings, if any, and if there is no liquidator the officer or officers of the corporation in Ontario having in charge, custody, possession or power the accounts, account books and insurance funds of the corporation shall *ipso facto*, become interim receiver or receivers, as the case may be, of the corporation, and officers of the Supreme Court subject to its control and direction, and shall so remain unless and until further order is made by the Court.

(2) If the treasurer or other officer does not become interim receiver he shall forthwith pay and deliver to the interim receiver all accounts, account books and insurance funds of the corporation in his charge, custody, possession or power.

Where
treasurer
not interim
receiver.

(3) Every interim receiver shall forthwith deposit in a chartered bank in Ontario to the credit of the corporation all money and securities for money in the charge, custody, possession or power of the corporation or of himself as officer thereof, and shall from time to time so deposit all further money and securities that come into his possession or power as interim receiver unless and until otherwise ordered by the Court or a Judge, and the same shall not be withdrawn from the bank without leave of the Court or a Judge.

Receiver to
deposit money
in bank.

(4) The interim receiver, or person depositing the same, shall obtain from the bank a receipt in triplicate for the money and securities so deposited and one of the triplicates shall be forthwith filed by him in the office of the Superintendent.

Bank's
receipt
for same.

(5) Notice from the Superintendent to any person that the registry of the insurance corporation has expired or has been cancelled, or that the corporation has become unregistered, shall be sufficient notice that the funds and securities of the corporation are subject solely to the order of the Supreme Court. 2 Geo. V. c. 33, s. 213.

Notice that
the assets
are a fund
in Court.

214.—(1) After the deposit of the money and securities in the bank, the interim receiver or receivers shall forthwith file an application, Form 1, in the office of the Master.

Application
by interim
receiver for
discharge.

(2) With the application there shall be filed one of the triplicate receipts given by the bank, and an affidavit, Form 2, in which all the receivers, if there are more than one, shall join.

Material to
be filed
with the
application.

(3) Until an interim receiver is discharged from his office, or until new security is taken from him by order of the Court, any security given by him to the corporation and in force at the cesser of registry shall continue in as full force and validity as if the corporation had continued to be registered.

Securities
previously
given by
receiver to
remain in
force.

(4) On the filing of the documents mentioned in this section the Master shall issue to the interim receiver his certificate of the filing, and shall issue his order requiring any person having in his charge, custody, possession or power the security mentioned in the next preceding subsection to deliver the same forthwith to the Master for approval, and on any refusal, neglect or delay to obey the order such person shall be liable to be committed for contempt of Court.

Calling in
security.

Non-delivery
punishable
as a con-
tempt.

Where no securities exist, or the securities are not satisfactory or sufficient.

(5) If there is no such security, or if the existing security is not in the opinion of the Master satisfactory or sufficient, the Master shall order the interim receiver within a time limited to give security or other or additional security, and if the interim receiver makes default the Master may remove him and appoint another interim receiver.

Guarantee company's bond.

(6) The Master may accept as security the bond of a guarantee company registered under this Act.

Bonds, etc., of receiver to be made to Superintendent.

(7) The security of every receiver under this Act shall be made to the Superintendent in his name of office, and all securities when approved by the Master shall be deposited with the Superintendent.

Enforcement of securities.

(8) All securities to which this section applies, whether made to him or not, may be enforced by the Superintendent for the time being in his name of office. 2 Geo. V. c. 33, s. 214.

Order of court staying proceedings.

215. On the application of the Superintendent or of any creditor or contributory upon proof to the satisfaction of the Court that all proceedings in relation to the winding up ought to be stayed the Court may at any time make an order staying the same either altogether or for a limited time on such terms and subject to such conditions as it may deem proper. 2 Geo. V. c. 33, s. 215.

Hearing application for discharge.

216.—(1) The Master shall appoint a place and a time not less than twenty-one days from the date of the appointment to hear the application of the interim receiver for his confirmation or discharge, and upon hearing the application, may appoint the interim receiver as receiver or may discharge him from his office and may appoint another as receiver, or make such other disposition of the matter as he may deem proper.

Public notice of application and of the hearing.

(2) Notice of the application, Form 3, shall be published by the interim receiver in two issues of the *Ontario Gazette*, and once a week for two weeks in a newspaper published in the county or district in which the head office or chief office of the corporation is located, and a copy of the notice shall be delivered to the Superintendent at least ten days before the day appointed for the hearing of the application.

Disposal of application by Master.

(3) At the place and time appointed the Master may appoint the interim receiver as receiver or may discharge him and appoint another person to be receiver, or with the consent in writing of the Superintendent may then or afterwards dispense with a receiver and generally make such order and give such directions as will best expedite the beneficial realization of the assets, the discharge of the liabilities, and the distribution of the surplus among the persons entitled.

(4) Where a receiver is dispensed with, the assets shall be realized and distributed by or under the direction of the Master among the persons entitled thereto in the same way, as nearly as may be, as if the distribution were being made by the receiver.

Distribution of assets where receiver dispensed with.

(5) A Judge of the Supreme Court may direct how the books, accounts and documents of the corporation and of the receiver are to be dealt with or disposed of.

Disposal of accounts, documents, etc.

(6) There shall not be more than one receiver at any one time except with the consent in writing of the Superintendent.

Not to be more than one receiver.

(7) The Master may appoint as receiver any trust company approved by the Lieutenant-Governor in Council as one which may be appointed receiver under this Act or which has been heretofore so approved. 2 Geo. V. c. 33, s. 216.

Trust company as receiver.

217.—(1) If the interim receiver fails to comply with the provisions of section 213 within eight days after becoming interim receiver the Master may on the application of the Superintendent or of any policy or certificate holder or of any claimant or creditor, supported by an affidavit stating the facts, remove the interim receiver and appoint a new interim receiver, and may make such further order as he may deem necessary for securing the property of the corporation.

On default of interim receiver Master may appoint another.

(2) An interim receiver appointed by the Master shall under his direction take immediate possession of the money and securities for money of the corporation, and shall thereafter perform all the duties required of an interim receiver, and on default of performance shall be liable to the penalties imposed by this Act.

Duties of new interim receiver.

(3) On non-compliance by an interim receiver or by any officer, agent or employee of the corporation with any provision of sections 213 or 214 or with any order made, or summons or direction issued by the Master under this Act, upon motion made as provided in subsection 1, the Master may issue his certificate of the default, and his certificate shall be conclusive evidence of such default for the purposes of any proceedings taken by any of such persons under sections 213 or 214, or under subsection 5 of this section.

Proceedings on default of compliance.

(4) A motion to commit such defaulter may on two clear days' notice be made before a Judge of the Supreme Court in Chambers.

Motion to commit.

(5) If any person made interim receiver by this Act or by order hereunder receives from the Superintendent notice under his hand and the seal of his office directing such person to comply with the provisions of section 213 or of section 214, and the person so notified does not within ten

Penalty for non-compliance with sections 213 and 214 after notice.

Rev. Stat. c. 90.

days after the notice delivered comply accordingly such person shall incur a penalty of not less than \$100 and not more than \$500, recoverable under *The Ontario Summary Convictions Act*; and, in case of a second or any subsequent conviction, he shall be imprisoned for a term not less than three months and not more than twelve months.

Powers of the Master.

(6) Subject to the provisions hereinafter contained the Master shall

- (a) Decide upon the security to be given by the receiver, and upon the mode and amount of his compensation;
- (b) Fix the times for the submission and passing of his accounts;
- (c) Settle advertisements;
- (d) Determine what persons are entitled to notice of any matter or proceeding, and the time, mode and form of notice to be given;
- (e) Settle and determine lists of the debtors and the contributories and the amounts which they are respectively liable to pay and contribute to the assets;
- (f) Settle and determine the claims of creditors and the amounts to which they are respectively entitled, and all matters of set-off affecting or alleged to affect such debts, contributions or claims;
- (g) Direct the realization of assets, the discharge of liabilities and the distribution of the surplus; and
- (h) Make such orders and give such directions as will best give effect to the provisions of this Act; and generally shall have all the powers which might be exercised on a reference to him under a judgment or order of the Supreme Court.

Appeal from Master's decision.

R.S.C. c. 144.

Consolidated rules to apply.

Duration of winding up.

Laches of receiver.

(7) Orders and certificates made by the Master under this Act shall be appealable in like manner as orders and certificates of the Master made in a winding-up under *The Winding-up Act* of Canada, and so far as not inconsistent with the provisions of this Act the Rules of the Supreme Court shall apply to all proceedings under this Act.

(8) The duration of the winding up shall not be prolonged beyond one year from its commencement unless the Superintendent for special and urgent cause shown to his satisfaction consents in writing to an extension to a day named in his consent.

(9) Where the creditors are subjected to delay or the estate to expense by any want of care, diligence or efficiency

on the part of the receiver the Master, on motion of the Superintendent or of any creditor, contributory or other person interested in the estate, may impose a fine on the receiver of not less than \$20 nor more than \$200 and costs which shall be a debt due from the receiver to the estate, and execution may issue forthwith or the amount may be charged against any remuneration already earned by but not yet paid to the receiver.

(10) The receiver shall as far as practicable act personally, under the direction of the Master, in all matters relating to the estate; he shall attend to the correspondence, give notices, file and copy documents, prepare schedules, make calls on persons found or adjudged subject thereto, and perform such other duties and services as may from time to time be proper and necessary.

Receiver to act personally as far as practicable.

(11) No costs shall be paid or allowed for the performance of duties or services which properly devolve upon the receiver personally either within the meaning of this Act or by virtue of any law or practice relating to receivers in force in Ontario. 2 Geo. V. c. 33, s. 217.

Costs not to be allowed for personal service of receiver.

218.—(1) Every receiver shall be subject to the summary jurisdiction of the Court in the same manner and to the same extent as the ordinary officers of the Court; and the performance of his duties may be compelled by order of the Court.

Receiver subject to summary jurisdiction of court.

(2) All remedies sought or demanded for enforcing any claim for a debt, privilege, mortgage, lien or right of property upon, in or to any effects or property in the hands, possession or custody of a receiver may be obtained by an order of the Court on summary petition, and not by action suit, attachment, seizure or other proceeding of any kind.

Remedies against estate obtained by summary order.

(3) In the discretion of the Court a receiver may be removed, and with or without his removal the Court may order the amount of any damage, loss or costs, ascertained to have been occasioned to the estate by his misconduct, misfeasance, laches or neglect to be deducted from his remuneration earned or to be paid by him. 2 Geo. V. c. 33, s. 218.

Removal of receiver.

219.—(1) The advertisement for or notice to creditors or claimants shall be according to Form 4.

Advertisement for creditors.

(2) Upon the evidence mentioned in subsection 4 of section 84, and without the creditor or claimant filing further or other proof or making any formal claim or giving notice, the receiver shall prepare the three schedules next herein-after mentioned with the amount for which or having relation to which each creditor or claimant appears entitled to rank on the assets, and upon such amount being verified to the satisfaction of the Master, and in the absence of contesta-

Certain claims to be collated without other proof than company's books, etc. Three schedules of claimants to be prepared.

tion by any person interested, the creditor or claimant shall be collocated and ranked accordingly.

Schedule of
creditors.

(3) The first of the schedules shall be the Schedule of Preferred Creditors and shall include the names, addresses and descriptions of the persons mentioned in section 231 and the total amount to which, on the evidence mentioned in subsection 2, particular reference being made to the book and page or as the case may be, such persons are severally entitled, and the amount for which they are severally entitled to rank as preferred creditors.

Schedule of
ordinary
creditors.

(4) The second of the schedules shall be the "Schedule of Ordinary Creditors," and the schedule shall include those preferred creditors who, in respect of an unpreferred residue, are entitled to rank as ordinary creditors and the amount in each case of such residue; also all creditors entitled to claim under policies matured before the commencement of the winding-up or having at that date a fixed surrender value, or unmatured at the commencement of the winding up but secured by deposit under this Act, together with the following particulars in the case of each policy, viz.: The number and description of the policy, the date of issue (and in the case of life insurance policies the age of the assured at the date of issue), the name and address of the assured, and of his assignee, if any, the amount for which the policy was issued and the value of the policy or of the unearned premiums, as the case may be, taken as at the commencement of the winding up, and in the case of policies issued for a term of years the date of the expiry of the term.

(a) In the case of annuities on lives or of unmatured policies of life insurance so secured, including endowment and tontine insurance, such annuity or unmatured policy issued by a corporation licensed under section 62 shall if valid and subsisting at the commencement of the winding up, be entitled to rank for the value ascertained according to the rules mentioned in Schedule C;

(b) In the case of all other unmatured policies the policy if valid and subsisting at the commencement of the winding up shall be entitled to rank for the unearned premium if any.

Who to be
paid distributive share
on annuity or unmatured policy.

(5) On the distribution of the assets the distributive sum payable in respect of any such annuity or unmatured policy shall be paid respectively to the annuitant or to the policyholder, or the beneficiary for value, if any, or to their respective assigns.

Other particulars to be included in schedule.

(6) The second schedule shall also include particulars of the obligations other than policies issued by the corporation and outstanding at the commencement of the winding up,

with the names of the obligees and payees, and the value of such obligations taken as at that date, and shall also include the names and addresses, so far as known, of all other persons entitled to rank upon the assets not being persons and claims falling within the scope of the first and third schedules.

(7) The third schedule shall be a Schedule of Unmatured and Unsecured Policies, and shall include all policies in force at the commencement of the winding up, but not falling within the scope of the second schedule, and shall include the like particulars as therein mentioned, except as to the value of the policy, and shall further show the aggregate of the contributions made by the assured to the reserve or surplus fund, if any, of the corporation; and in any distribution of any surplus assets the share under any policy shall be proportionate to such aggregate of contributions by the assured, with or without interest thereon, as the Master under the circumstances may deem to be just.

Schedule of the unmatured and unsecured policies.

(8) Where the registry of the corporation has been cancelled for insolvency or impending insolvency, or where the Master is of the opinion that the assets of the estate are insufficient or not more than sufficient to pay in full the claims entitled to rank in the first and second schedules the Master may dispense with the preparation of the third schedule.

When third schedule may be dispensed with.

(9) As soon as practicable after the commencement of the winding up the receiver shall prepare a "Schedule of Debtors" and a "Schedule of Contributories."

Schedules of debtors and contributories.

(10) The "Schedule of Debtors" shall show the names and addresses, so far as the addresses can be ascertained, of all persons actually indebted to the estate or against whom the estate holds obligations or accounts accruing due with particulars of the same, and of the securities if any held by the estate, reference being in every case made to the books or vouchers relating thereto, and such schedule shall be *prima facie* evidence of the indebtedness of any person whose name appears therein.

What schedule of debtors to show.

(11) The "Schedule of Contributories" shall show the names and addresses, so far as the addresses can be ascertained, of all members and shareholders and all persons who are subject to call, or otherwise liable to contribute to the assets, and the extent of such liability, giving the like reference to books and vouchers.

What schedule of contributories to show.

(12) The schedules mentioned in this section shall be prepared by the receiver in triplicate; one of the triplicates verified by his oath shall be filed in the Master's office, another shall be delivered to the Superintendent, and the third shall be kept in the receiver's office and shall be accessible on demand to all persons interested in the estate. 2 Geo. V. c. 33, s. 219.

Schedules to be in triplicate: how disposed of.

Procedure
after expiry
of the time
limited for
claims.

220.—(1) After the expiration of the time limited by the advertisement for creditors or by the notice to claimants the Master shall settle and determine

- (a) The list of creditors and the claims of alleged creditors, and the amounts to which those persons by him adjudged to be creditors are respectively entitled;
- (b) The list of debtors and contributories and the amounts they are severally liable to pay or contribute to the assets; and
- (c) All matters of set-off affecting or alleged to affect such claims against, or debts or contributions to the estate.

Disallow-
ance for
want of due
notice.

(2) The Master may disallow all claims of which notice was not given within the time limited; and thereafter shall report directing a distribution of the assets among the persons entitled thereto, having regard only to the claims of which the receiver had notice within the time limited.

Special
leave to
prove claim.

(3) The Master may give special leave to prove a claim of which notice has not been given upon such terms as to costs and otherwise as the Master directs.

Interim
report.

(4) The Master may make an interim report whenever deemed advisable; and when deemed necessary may direct the payment of an interim dividend.

Interim
dividend,
when to be
paid.

(5) It shall not be necessary to procure an order for the payment of any dividend declared by the Master's report or interim report after such report becomes absolute by lapse of time, or is confirmed or is affirmed, or affirmed with a variation, on final appeal, as the case may be, but the receiver may pay such dividend upon the production of a certified copy of the report and a certificate of the Master certifying the date of its filing and that the report has become absolute by lapse of time or is confirmed or has been affirmed, and if affirmed with a variation how varied on final appeal as the case may be. 2 Geo. V. c. 33, s. 220.

Inquiry into
infeasibil-
ities and
defaults of
directors,
etc.

221. Where in a winding-up or liquidation under this Act the liability of the corporation is admitted, but the person to whom the corporation is liable is in dispute or uncertain, or where in the opinion of the Superintendent no sufficient discharge for the liability can be had the amount of the liability or of the dividends payable in respect thereof shall be paid into court under the provisions of *The Trustee Act*. 2 Geo. V. c. 33, s. 221.

Rev. Stat.
c. 121.

Filing
Master's
report.

222.—(1) Where a report is made as to debtors or contributories the Master shall deliver it to the receiver who shall forthwith file the same in the Master's office.

(2) Notice of the filing of the report and of the date of filing shall forthwith be given by the receiver by publication in the *Ontario Gazette* and in a newspaper published at or nearest the place where the head office of the corporation is located and in two daily newspapers published in the City of Toronto.

(3) The receiver shall also forthwith deliver or transmit a copy of the report to the Superintendent having indorsed thereon notice of the date of filing, and shall also keep in his own office a copy of the report indorsed with the date of filing which shall be accessible on demand to all persons interested in the estate.

(4) At the expiration of fourteen days from the receipt of such indorsed copy of the report by the Superintendent the report shall become absolute unless notice of appeal is served within that time, and every person ascertained by the report to be indebted shall *ipso facto* and without further proceedings and as after final judgment be deemed to be a debtor to the corporation in the sum specified in the report, and thereafter the Master may under his hand certify that by his report dated and filed in on the day of , 19 (supplying the necessary particulars) the person named in the certificate has been found indebted to the corporation (naming it) in the sum of \$ with \$ interest (if any) and \$ costs (if any).

(5) A fee of 25 cents shall be payable to a Local Master in respect of each certificate together with 10 cents for each additional five names after the first.

(6) The receiver or the Superintendent may thereupon by præcipe or requisition directed to the clerk of any Division Court or County or District Court which would have jurisdiction in an action for the recovery of a claim of the amount specified in the certificate, or to the proper officer of the Supreme Court, require the certificate to be entered as a judgment of the Court, and thereupon it shall be entered accordingly, and thereafter the receiver or the Superintendent may take any proceedings or cause to be issued any process for the enforcing of the judgment that could be had or taken for the like purpose upon any judgment of such Court.

(7) Where the certificate includes the names of more than one person residing in the same bailiwick or division, it may be entered as a judgment against all of them and only one writ of execution shall issue commanding the sheriff or bailiff to execute the writ against the goods and lands of each of the persons named therein in respect of the sum of money, damages or costs specified as payable by him; and thereupon the sheriff or bailiff shall execute the writ as he would if separate writs for the sum of money, damages or costs had been issued against each of such persons. 2 Geo. V. c. 33, s. 222.

Officer or liquidator misapplying funds of corporation.

223. Where in the course of the voluntary or compulsory winding up a corporation it appears that any past or present trustee, auditor, director, manager, officer, official, receiver or liquidator of the corporation has misapplied or retained in his own hands or become liable or accountable for any money, assets, or property of the corporation, or has been guilty of any misfeasance or breach of trust or duty in relation to the corporation, or that his conduct in the management of the affairs of the corporation has been such as to require investigation the Master, on the application of the Superintendent or the Registrar or of the receiver or of any creditor or contributory, and after at least ten days' notice served on the person whose conduct or dealings are to be investigated, may examine into the conduct and dealings of such person and may direct him to repay any money so misapplied or retained, or for which he has become liable or accountable, together with interest at such rate as the Master thinks just, or to contribute such sums of money to the assets of the company by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust as the Master thinks fit, and may disallow his account, if any, for services or salary. 2 Geo. V. c. 33, s. 223.

R.S.C. c.
144, s. 123.

Books, etc.,
of receiver
to be acces-
sible to
Insurance
Registrar.

224. The books, financial statements, schedules, accounts and vouchers of every receiver shall be accessible to the Superintendent and the Registrar and to any person authorized under the hand and seal of either of them; and if any receiver refuses or neglects to afford such access, or if he makes a wilfully false statement or untrue entry he shall be guilty of an offence, and upon summary conviction thereof shall be liable to imprisonment for a period not exceeding twelve months. 2 Geo. V. c. 33, s. 224.

Receiver to
deposit
moneys in
Bank.

225. Unless and until otherwise ordered by the Court the receiver shall forthwith deposit at interest in a chartered bank in Ontario to the credit of the corporation all money by him from time to time received whenever the same amounts to \$100. 2 Geo. V. c. 33, s. 225.

Default of
receiver in
leaving or
passing
accounts,
etc.

226. In case of default by any receiver or liquidator in leaving or passing any account, or in making any deposit or payment, or of laches or negligence in performing any other duty devolving upon him by virtue of his office, or of an order or direction of the Court, the Master either without motion or on motion by the Superintendent or any person interested may disallow any salary or compensation to the receiver or may charge him with interest upon his balances, or may remove him and appoint another, or make such other order as will best carry into effect the purposes of this Act. 2 Geo. V. c. 33, s. 226.

Insurance
Superinten-
dent a party.

227. Where a corporation is being wound up every action, matter or proceeding relative to the estate of the corpora-

tion, or to a receiver or liquidator thereof, or to the sureties of or securities given by either, shall be brought and prosecuted by or in the name of the Superintendent by his name of office, and the Superintendent shall be a necessary party to every such action, matter or proceeding against the corporation or affecting the estate and to every taxation, relaxation, review or revision of costs affecting the estate. 2 Geo. V. c. 33, s. 227.

228. Vacations in the Supreme Court shall not apply to proceedings under sections 205 to 231. 2 Geo. V. c. 33, s. 228.

High Court
vacations
not to apply
to proceed-
ings under
sections
205-231.

Costs.

229.—(1) Except with the consent in writing of the Superintendent no counsel or solicitor shall be employed to act for the receiver or others at the expense of the corporation.

Employment
of counsel
or solicitor
by receiver.

(2) A minute entered in the Master's book shall have the same force as a formal order or direction; and except in special cases no costs shall be allowed for attending on or taking out a formal order or direction.

Minute on
Master's
book to have
force of
formal order
or direction.

(3) A copy of any minute certified under the hand of the Master shall be *prima facie* evidence thereof, and for every such certificate a fee of 50 cents shall be payable.

Copy of
minute as
evidence.

(4) Consolidated Rule 678 or any rule substituted therefor shall apply to any bill of costs payable wholly or in part out of the estate.

Revision of
taxed costs.

(5) The costs of any matter or proceeding in the Master's office under this Act shall be on the County Court scale.

Scale of costs.

(6) The taxed costs of any action, matter or proceeding by the Superintendent or by the receiver with the written consent of the Superintendent shall be paid out of the funds or estate of the corporation; and except with such consent, no costs shall be allowed out of the estate for separate or other representation of members or certificate holders of the corporation or for the representation of any class of members or certificate holders, and the costs of all other actions, matters, or proceedings shall be in the discretion of the Court.

Costs of
proceedings
in winding
up.

(7) All costs, charges and expenses properly incurred in the receivership and winding up of the corporation, including the remuneration of the receiver, shall be payable out of the assets of the corporation in priority to all other claims. 2 Geo. V. c. 33, s. 229.

Priority of
certain costs.

230.—(1) Every account to be passed or bill of costs to be taxed, payment of which is to be made out of the estate, shall be rendered in duplicate to the receiver and the receiver shall deliver or transmit one duplicate to the Superintendent

Accounts,
bills of costs.

at least ten days before the day appointed for the passing of the account or taxation of the bill of costs.

Evidence of compliance with subs. 1 before passing or taxation.

(2) The passing of the account or taxation of the bill of costs shall not be proceeded with until proof has been furnished by the production of the receipt of the Superintendent or otherwise to the officer before whom the account is to be passed or the bill of costs is to be taxed that the provisions of subsection 1 have been complied with. 2 Geo. V. c. 33, s. 230.

PRIORITY OF CLAIMS FOR WAGES.

Clerks and wage earners how far preferred creditors.

231. Subject to the provisions of subsection 7 of section 229, the Master in distributing the assets of the corporation shall direct payment in priority to the claims of the ordinary or general creditors of the salary or wages of all clerks and wage-earners in the employment of the corporation due at the date when the corporation became unregistered or within one month before, not exceeding three months' salary or wages, and such persons shall be entitled to rank as ordinary or general creditors for the residue of their claims. 2 Geo. V. c. 33, s. 231.

PURCHASE OF ASSETS BY OFFICERS AND OTHERS.

Purchase of assets by officers, etc., prohibited.

232. Any purchase of assets of an unregistered or liquidating corporation, or of any member's right to rank on the assets, or of a member's dividend by any person directing, managing, auditing, or employed by the corporation within three years next before receivership or liquidation, or any such purchase by any receiver, or liquidator, or by an inspector is prohibited, and any such pretended purchase or assignment shall be void. 2 Geo. V. c. 33, s. 232.

PART II.

PROVISIONS RELATING TO LIVE STOCK INSURANCE CONTRACTS.

Meetings to establish companies, how called.

233.—(1) Ten owners of live stock in any municipality or association of municipalities may call a meeting of the owners of live stock to consult whether it is expedient to establish therein a live stock insurance company upon the mutual plan.

Organization—application of several provisions.

(2) The mode of calling such meeting and the proceedings for the formation of the company shall be the same *mutatis mutandis* as in the case of the formation of a mutual fire insurance company except that the determination that it is expedient to establish the company shall be by thirty residents of the municipality being owners of live stock in Ontario and that the meeting for the organization of the company shall not be held unless and until fifty owners of live stock

in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the company which in the aggregate shall amount to \$50,000 at least. 2 Geo. V. c. 33, s. 233.

234. The company may within the limits prescribed by the license insure against loss of live stock by fire, lightning, accident, disease or any other means, except that of design on the part of the assured or by the invasion of an enemy or by insurrection. 2 Geo. V. c. 33, s. 234. Property which may be insured.

235. The following provisions of this Act relating to fire insurance contracts shall apply to live stock insurance contracts,— Application of provisions as to fire insurance.

(a) The provisions as to the form and contents of the policy;

(b) The provisions as to the conditions including the statutory conditions numbered 1, 3, 5, 6 (a), (b), 7, 8, 13, 14, 15, 16, 17, 18 (a), (b), (c), 19, 20, 21, 22 and 24;

(c) Subsection 3 of section 192.

The following additional condition shall form part of every live stock insurance contract:

The insurance may be terminated by the company by giving seven days' notice to that effect. 2 Geo. V. c. 33 s. 235. Termination of contract.

236.—(1) Contracts of insurance shall not in any case exceed the term of two years. 2 Geo. V. c. 33, s. 236 (1). Term of contract.

(2) A contract made for one year or any shorter period may be renewed from time to time at the discretion of the directors by renewal receipt instead of by policy, on the assured paying the required premium or giving his premium note; and all payments for renewal by cash or premium notes shall be made at or before the end of the period for which the policy was granted or renewed, otherwise the policy shall be void. 2 Geo. V. c. 33, s. 236 (2); 3-4 Geo. V. c. 35, s. 14. Renewing policies.

(3) No premium note taken under any contract of insurance shall exceed forty per centum or be less than ten per centum per annum of the sum insured, and no renewal receipt shall extend the contract beyond two years from the date of the policy. 2 Geo. V. c. 33, s. 236 (3). Premium note, limitation of amount.

PART III.

PROVISIONS RELATING TO WEATHER INSURANCE CONTRACTS.

Interpreta-
tion.**237.—(1)** In this Part,

"Agricultural Property"

- (a) "Agricultural Property" shall include dwelling-houses, stables, barns, sheds and outbuildings, and their contents, waggons, carriages, and other vehicles; saddles and harness; agricultural engines, implements, tools, instruments, appliances and machinery; household goods, wearing apparel, provisions, musical instruments, and libraries; live stock; growing crops, and crops severed from the land; fruit and ornamental trees, shrubs and plants; and live or standing timber, being upon farms as farm property, and owned by members of the company in which the property is insured;

"Weather Insurance."

- (b) "Weather Insurance" shall mean and include the insurance of any kind of agricultural property against loss or injury arising from such atmospheric disturbances, discharges or conditions as the contract of insurance shall specify. 2 Geo. V. c. 33, s. 237.

Meeting to
establish.

238.—(1) Ten owners of agricultural property in any municipality or association of municipalities may call a meeting of the owners of agricultural property to consult whether it is expedient to establish therein a weather insurance company upon the mutual plan.

Organization.

(2) The mode of calling such meeting and the proceedings for the formation of the company shall be the same *mutatis mutandis* as in the case of the formation of a mutual fire insurance company except that the determination that it is expedient to establish the company shall be by thirty residents of the municipality being owners of agricultural property in Ontario, and that the meeting for the organization of the company shall not be held unless and until fifty owners of agricultural property in Ontario have signed their names to the subscription book and bound themselves to effect insurance in the company which in the aggregate shall amount to \$50,000 at least. 2 Geo. V. c. 33, s. 238.

Application
of certain
provisions as
to fire insur-
ance.

239.—(1) The following provisions of this Act relating to fire insurance contracts shall apply to weather insurance contracts:—

- (a) The provisions as to the form and contents of the policy;
- (b) The provisions as to conditions including the statutory conditions numbered 1, 3, 5, 6 (a), (b), 7, 8, 13, 14, 15, 16, 17, 18 (a), (b), (c), 19, 20, 21, 22 and 24;

(c) Subsection 3 of section 192.

(2) The following additional conditions shall form part of every weather insurance contract: Additional conditions.

(i) The insurance may be terminated by the company by giving seven days' notice to that effect. Termination.

(ii) The company is not liable for loss or damage occurring to buildings or structures or to their respective contents where the buildings or structures have been weakened by subsequent alterations unless permission to make such alterations has been previously granted in writing signed by a duly authorized agent of the company. Where buildings or structures have been weakened by alterations made without consent. 2 Geo. V. c. 33, s. 239.

240. A contract of weather insurance shall not in any case exceed the term of three years. Duration of contract. 2 Geo. V. c. 33, s. 240.

241. On every premium note taken by the company there shall be payable at the commencement of each year of insurance a fixed sum amounting to at least one-fifth of one per centum of the sum insured: and the premium note shall, as to the balance thereof, be subject to assessment by the directors. Fixed payments on premium note. Assessment of the balance. 2 Geo. V. c. 33, s. 241.

PART IV.

GENERAL PROVISIONS.

242.—(1) Until otherwise prescribed by the Lieutenant-Governor in Council the fees for Letters Patent of Incorporation under this Act shall be as mentioned in Schedule D. Fees, on incorporation.

(2) Until otherwise prescribed by the Lieutenant-Governor in Council the fees set out in Schedules E to H shall be payable in respect of the matters therein mentioned. Other fees.

(3) The fees prescribed in Schedules D to H shall be payable to the Department of Insurance. To be paid to department.

(4) When the fee for any term of license or registry under Schedules D to H exceeds \$10 the fee for a certificate covering a period of six months or under shall be one-half of the fee payable for the full term. When term of license or registry not more than one month. 2 Geo. V. c. 33, s. 242.

243. The fees payable upon an application or in respect of any document or instrument to be filed, examined or deposited shall be paid before the application is considered or the document or instrument is filed, examined or deposited; and in the case of registry or certificates of registry the fees shall be payable before the corporation is registered. To be paid before steps taken. 2 Geo. V. c. 33, s. 243.

Regulations.

244.—(1) The Lieutenant-Governor in Council may make regulations for

- (a) Extending the provisions of this Act or any of them to any system of insurance not particularly mentioned herein;
- (b) Generally for the better administration of the Department and the carrying out of the provisions of this Act.

Regulations
to be laid
before
Assembly.

(2) Every Order in Council made under this section shall be laid before the Assembly forthwith if the Assembly is then in session and if not then in session then within fifteen days after the opening of the next Session. 2 Geo. V. c. 33, s. 244.

Application
of certain
sections
of the
Ontario
Companies
Act.
Rev. Stat.
c. 178.

245. Except where the provisions of this Act are inconsistent with them, sections 49, 51, 54 to 62, 72 to 77, 95 (1) and 98 of *The Ontario Companies Act* shall apply substituting for the words "Provincial Secretary" wherever they occur the word "Superintendent." 2 Geo. V. c. 33, s. 246.

SCHEDULE A.

[Section 73 (2) (g).]

Age at entry.	Net level Premium for all-life insurance of \$1,000.			
	Yearly, in advance.	Half-yearly, in advance.	Quarterly, in advance.	Monthly, in advance.
	\$	\$	\$	\$
18	9.86	5.00	2.51	.84
19	10.20	5.18	2.60	.87
20	10.55	5.36	2.69	.90
21	10.91	5.53	2.78	.93
22	11.28	5.71	2.87	.96
23	11.66	5.89	2.96	.99
24	12.03	6.07	3.05	1.02
25	12.42	6.25	3.14	1.05
26	12.76	6.43	3.23	1.08
27	13.12	6.60	3.32	1.11
28	13.49	6.78	3.41	1.14
29	13.87	7.02	3.53	1.18
30	14.31	7.20	3.62	1.21
31	14.76	7.44	3.74	1.25
32	15.22	7.68	3.86	1.29
33	15.73	7.91	3.98	1.33
34	16.25	8.21	4.13	1.38
35	16.82	8.51	4.28	1.43
36	17.42	8.81	4.43	1.48
37	18.05	9.10	4.57	1.53
38	18.71	9.46	4.75	1.59
39	19.42	9.82	4.93	1.65
40	20.18	10.17	5.11	1.71
41	20.97	10.59	5.32	1.78
42	21.81	11.01	5.53	1.85
43	22.70	11.48	5.77	1.93
44	23.65	11.96	6.01	2.01
45	24.66	12.44	6.25	2.09
46	25.72	12.97	6.52	2.18
47	27.31	13.80	6.94	2.32
48	28.10	14.16	7.12	2.38
49	29.36	14.82	7.45	2.49
50	30.72	15.53	7.80	2.61
51	32.17	16.24	8.16	2.73
52	33.71	17.02	8.55	2.86
53	35.34	17.85	8.97	3.00
54	37.07	18.74	9.42	3.15
55	38.94	19.64	9.87	3.30

SCHEDULE B.

FORMS.

(Section 214 (1).)

FORM 1.

INTERIM RECEIVER'S APPLICATION FOR CONFIRMATION OR DISCHARGE.

In the Supreme Court of Ontario,

In the matter of *The Ontario Insurance Act*.

And in the matter of (name of corporation), an unregistered insurance corporation.

I, C.D., by virtue of *The Ontario Insurance Act*, (or of an order made under *The Ontario Insurance Act* as the case may be), interim receiver for the above named corporation, do on the grounds set forth in the annexed affidavit apply to the Court for my confirmation in the office of receiver (or for my discharge from the office of receiver, according as the interim receiver applies to be confirmed or discharged), and for an appointment of a day on which my application will be considered.

Dated at this day of , 19 .

C. D.

FORM 2.

(Section 214 (2).)

AFFIDAVIT OF INTERIM RECEIVER.

In the Supreme Court of Ontario,

In the matter of *The Ontario Insurance Act*.

And in the matter of (name of the corporation) an unregistered insurance corporation and the application of C.D., interim receiver, dated the day of , 19 .

I, C.D., by virtue of *The Ontario Insurance Act*, interim receiver for the (naming the corporation), make oath and say as follows:

1. The (naming the corporation) ceased to be registered under *The Ontario Insurance Act*, on the day of , 19 , and thereupon by virtue of the said Act I became interim receiver for the said corporation.

2. When the said corporation so ceased to be registered, I held therein the office of treasurer (or as the case may be) and as such officer I had in my custody, possession or power the funds (or if a corporation having funds separate and distinct from the funds of the insurance branch, then say insurance funds) of the corporation.

3. All the money and securities for money in my custody, possession or power when the said corporation ceased to be registered or subsequently and up to the time of making deposit in the bank as required by the said Act, are fully and truly set out in Schedule A. to this my affidavit; and the said deposit thereof is correctly vouched for by the bank's receipts hereto annexed.

4. The other assets of the said corporation, including money or securities for money which have come into my charge, custody,

possession or power since the time of making the said deposit are fully and truly set out in Schedule B. to this my affidavit.

5. As treasurer (or other officer as the case may be) of the said corporation, I gave securities for the faithful performance of my duties to the corporation as follows:

Here specify the securities given; if bonds, give names and addresses of the sureties and the sums in which they are severally bound.

6. The said securities are still in force and are now in the custody, possession or power of (here give the name and address of the custodian or bailee).

[Where the interim receiver was appointed by order the above paragraphs may be varied to suit the circumstances.]

7. I have filed herewith an application in the Master's office, praying the court to confirm me in my office as receiver (or to discharge me from my office as receiver, as the case may be), and the following are the material facts in support of the said application (here state shortly the material facts).

Sworn at				} (Signature.)
this	day of	19		
before me, etc.				

FORM 3.

(Section 216 (2).)

In the Supreme Court of Ontario,

In the matter of *The Ontario Insurance Act.*

And in the matter of the (naming the corporation) an unregistered insurance corporation.

TAKE NOTICE that C.D., interim receiver of the said corporation, has filed in the Master's office an application to be confirmed in his office (or to be discharged from his office) as receiver, and that the Master has appointed (place, day and hour). for the hearing of the said application, at which place and time the Master will make such disposition of the matter as may appear proper.

Dated at the
day of , 19

C.D.,
Interim Receiver.

FORM 4.

(Section 219 (1).)

ADVERTISEMENT FOR CREDITORS.

Ontario Insurance Act.

In the Supreme Court of Ontario,

In the matter of *The Ontario Insurance Act.*

And in the matter of the (naming the corporation), an unregistered insurance corporation.

Pursuant to the judgment and direction of the Superintendent of Insurance herein, dated the day of , 19 , cancelling the registration of the above named corporation (or as the case may be).

The creditors and persons (other than holders of unmatured policies or certificates of the corporation) having claims against the corporation are, on or before the day of , 19 , to deliver or send by post, prepaid, to , of , the Receiver of the corporation, an affidavit showing their Christian names and surnames, addresses and descriptions, the full particulars of their claims, a statement of their accounts and the nature of the security, if any, held by them; or, in default thereof, they will be peremptorily excluded from the benefit of such judgment and direction, and from all share in the assets of the estate; and the said creditors and claimants, if so required by notice in writing from the said Receiver, are to come in and prove their debts and claims and produce their securities, if any, before me at my chambers at , on the day of , 19 , at o'clock in the noon, being the time appointed for hearing and adjudicating upon debts and claims, or, in default thereof, they will be excluded from the benefit of any distribution of assets.

The status and rights of persons interested under unmatured policies of the corporation will, in the absence of contestation and without any claim made, be determined by the books and records of the corporation or of its officers; a schedule showing the said status and rights may be seen in the office of the Receiver at the above address.

Notices and letters respecting the estate or any alleged right or interest therein, are to be addressed to the Receiver as above, and all letters requiring answer are to enclose a stamped and addressed envelope for reply.

Dated this day of , 19 .

Master.

2 Geo. V. c. 33, Sched. B.

SCHEDULE C.

(Sections 107 and 219 (4) (a).)

RULE FOR VALUING AN ANNUITY.

(1) An annuity required or entitled to be valued under *The Ontario Insurance Act* shall (irrespective of the state of the health of the annuitant or nominee) be valued according to the table known as the Hm Table of the Institute of Actuaries of Great Britain, interest being reckoned at the rate of four per centum per annum and the age of the life being taken as at the nearest birthday.

RULE FOR VALUING A POLICY OR CONTRACT OF LIFE INSURANCE.

(2) The value of a policy or contract of life insurance required or entitled to be valued under *The Ontario Insurance Act* is (irrespective of the state of health of the assured or policyholder) the difference between the present value of the reversion in the sum insured (including any bonus or addition thereto made before the commencement of the winding up), and the present value of the future net annual premiums.

(3) Such present value shall be computed according to both the tables and the rate of interest mentioned in subsection 5 of section 166 of *The Ontario Insurance Act*.

(4) The premium to be calculated is such net or pure premium as according to the said tables, and said rate of interest is sufficient to provide for the risk incurred by the insurer in issuing the policy or contract exclusive of any loading or addition for office expenses and other charges.

(5) The present value of the reversion at any age is the net single premium that, according to the said tables and said rate of interest, is equivalent to the present value of the net annual premium payable at that age and so long thereafter as required by the policy or contract.

2 Geo. V. c. 33, Sched. C.

SCHEDULE D.

(Section 242.)

Incorporation of Joint Stock Companies where the proposed capital stock is:

(a) \$1,000,000 or upwards	\$250 00
(b) \$500,000 or upwards but less than \$1,000,000....	200 00
(c) \$300,000 or upwards but less than \$500,000.....	150 00
(d) Supplementary Letters Patent	50 00

Unless the capital stock of the company is thereby increased, in which case the fee shall be payable upon the amount of the increase under the above scale (a), (b), (c), the minimum fee being \$150.

2 Geo. V. c. 33, Sched. D.

SCHEDULE E.

(Section 242.)

Insurance Companies Licensed by the Province.

1. For examining and passing upon applications or documents under sections 9, 21, 27, 51, 61.....	\$10 00
2. For filing power of attorney under section 81.....	5 00
3. Application for change of name or of head office....	10 00
4. For initial license to do business:—	
Joint Stock Company	100 00
Mutual	25 00
5. For each annual renewal of license:—	
Joint Stock Company	50 00
Cash Mutual Company	25 00
Mutual	5 00
6. For each supplementary license:—	
Initial	20 00
Renewal	10 00
7. Fee on Petition for Order-in-Council under Sections 51, 52 or 61	25 00
8. For filing annual statements:—	
Cash Mutual Company	5 00
Joint Stock Company	5 00

2 Geo. V. c. 33, Sched. E.; 3-4 Geo. V. c. 35, s. 15.

SCHEDULE F.

(Section 242)

FRIENDLY SOCIETIES.

1. In the case of Ontario corporations registered or applying for registry on the Friendly Society Register, the fees shall be as follows:—

Subdivision A.

Corporations or incorporated branches having in Ontario 500 members or less:—

(a) Application for initial registry	\$2 00
(b) Extension of time for making application or delivering documents	1 00
(c) Certificate of registry, original or renewed.....	3 00
(d) Interim Certificates or extension of certificates.....	2 00
(e) Revivor of registry after suspension	2 00
(f) Change of name or of head office	4 00

Subdivision B.

Corporations or incorporated branches having in Ontario over 500 and not more than 1,500 members:—

(a) Application for initial registry	\$3 00
(b) Extension of time for making application or delivering documents	2 00
(c) Certificate of registry, original or renewed.....	10 00
(d) Interim certificate, or extension of certificate	3 00
(e) Revivor of registry after suspension	6 00
(f) Change of name or of head office	6 00

Subdivision C.

Corporations or incorporated branches having in Ontario over 1,500 and not more than 2,500 members:—

(a) Application for initial registry	\$4 00
(b) Extension of time for making application or delivering documents	2 00
(c) Certificate of registry, original or renewed	25 00
(d) Interim certificate, or extension of certificate	4 00
(e) Revivor of registry after suspension	8 00
(f) Change of name or of head office.....	8 00

Subdivision D.

Corporations or incorporated branches having in Ontario over 2,500 members:—

(a) Application for initial registry	\$5 00
(b) Extension of time for making application or delivering documents	2 00
(c) Certificate of registry, original or renewed.....	25 00
(d) Interim certificate or extension of certificate	5 00
(e) Revivor of registry after suspension	10 00
(f) Change of name or of head office	10 00

In the case of extra-provincial friendly societies the fees in respect of powers of attorney shall be \$5, and in other respects the fees shall be as in Subdivision D of this Schedule.

SCHEDULE G.

(Section 242.)

Corporations deriving their powers from an Act of Canada:—

(a) Application for initial registry	5 00
(b) Extension of time for making application or delivering documents	2 00
(c) Filing power of attorney in case of extra-provincial corporations	5 00
(d) Filing change of power of attorney	5 00
(e) Certificate of registry, original or renewed	150 00
(f) Interim certificate of registry, or extension of certificate	5 00
(g) Revivor of registry after suspension	25 00

2. In the case of corporations licensed under *The Insurance Act* (1910) of Canada to transact life insurance upon the assessment plan the fees shall be as follows:—

(a) Application for initial registry	\$5 00
(b) Extension of time for making application or delivering documents	2 00
(c) Filing power of attorney in case of extra-provincial corporations	5 00
(d) Filing change of power of attorney	5 00
(e) Certificate of registry, original or renewed	100 00
(f) Interim certificate of registry, or extension of certificate	5 00
(g) Revivor of registry after suspension	20 00

3. In the case of corporations mentioned in clauses (b), (d) and (e) of section 72, the fees shall be as in Subdivision A. of Schedule "T."

4. In the case of corporations mentioned in clause (c) of section 72, the fees shall be as follows:—

(a) Application for initial registry	\$2 00
(b) Extension of time for making application or delivering documents	1 00
(c) Filing power of attorney in case of extra-provincial corporations	2 00
(d) Filing change of power of attorney	2 00
(e) Certificate of registry, original or renewed	3 00
(f) Interim certificate of registry, or extension of certificate	2 00
(g) Revivor of registry after suspension	3 00

2 Geo. V. c. 33, Sched. G.

SCHEDULE H.

(Section 242.)

MISCELLANEOUS.

Office copy of decision of Superintendent.....	\$1 00
Certified copy of certificate of registry	1 00
Certified copy of entry on register	50
Copies of or extracts from documents filed with or issued by the Superintendent, per folio of 100 words	10
Also certificate of Superintendent	1 00
Certificate of exemption from registry	1 00
Filing of certificate of incorporation or any other separate document required by this Act to be filed in the office of the Provincial Registrar	1 00
For examining and passing upon applications of companies to have their suretyship bonds authorized by any of the Acts respecting the acceptance of certain corpora- tions as sureties	10 00
Order-in-Council authorizing such bonds	100 00
Consent under section 169 (7)	5 00
Fee for certificate of registry, original or renewed, in the case of corporations, companies, insurers or under- writers transacting inland or ocean marine insurance, also discontinuing corporations, and companies in- vesting surplus funds	10 00

2 Geo. V. c. 33, Sched. H.

CHAPTER 184.

An Act respecting Loan and Trust Corporations.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Loan and Trust Corporations Act*, 2 Geo. V. c. 34, s. 1. Short title.

2. In this Act,

1. "Chief Agency" shall mean the principal office or place of business in Ontario of a corporation which has its head office out of Ontario; Interpretation.
"Chief agency."
2. "Corporation" shall include a loan corporation, a loaning land corporation and a trust company; "Corporation."
3. "Due application" shall include such furnishing of information, evidence and material as shall be required by the Registrar; the payment of the prescribed fees in respect of any application, certificate or document required or issued under this Act; and also the payment to the Treasurer of Ontario of all taxes due and payable by the applicant company under any Act of Ontario; "Due application."
4. "Extra-Provincial Corporation" shall mean a corporation other than one incorporated under the law of Ontario; "Extra-provincial corporation."
5. "Head Office" shall mean the place where the chief executive officers of the corporation transact its business; "Head office."
6. "Law of Ontario" shall include any law of the former Province of Canada or of Upper Canada, continued as the law of Ontario, or consolidated or incorporated with the law of Ontario; "Law of Ontario."
7. "Loan Corporation" shall include every incorporated company, association or society, not being a chartered bank of Canada or an insurance corporation, constituted, authorized or operated for the purpose of lending money, or for that and any other purpose, but shall not include a loaning land corporation or a trust company; "Loan corporation."

- "Loaning Land Corporation." 8. "Loaning Land Corporation" shall mean a loan company whose powers include the business of buying and selling land;
- "Minister." 9. "Minister" shall mean the member of the Executive Council under whose direction this Act is administered;
- "Paid in." 10. "Paid in," as applied to the capital stock of a corporation or to any shares thereof shall mean the amount paid to the corporation on its shares, not including the premium if any paid on such shares, whether such shares are or are not fully paid up;
- "Paid up." 11. "Paid up," when applied to any share, shall mean a share on which there remains no liability, actual or contingent, to the issuing corporation;
- "Permanent stock." "Permanent shares." 12. "Permanent Stock," or "Permanent Shares," shall include all stock or all shares of permanent or fixed capital not liable to be withdrawn from or repaid by the corporation;
- "Provincial corporation." 13. "Provincial Corporation" shall mean a corporation incorporated under the law of Ontario, and operated under the Act or instrument by virtue of which the corporation became so incorporated;
- "Real estate." 14. "Real Estate" shall include messuages, lands, rents and hereditaments, whether freehold or of any other tenure, and whether corporeal or incorporeal, and leasehold estates, and any undivided share thereof, and any estate, right or interest therein;
- "Registered corporation." 15. "Registered Corporation" shall mean a Corporation registered under this Act;
- "Trust Company." 16. "Trust Company" shall mean a company constituted or operated for the purpose of acting as trustee, agent, executor, administrator, receiver, liquidator, assignee, guardian of a minor's estate, or committee of a lunatic's estate. 2 Geo. V. c. 34, s. 2.

INCORPORATION OF LOAN OR LOANING LAND CORPORATION.

Application for.

3.—(1) An application for the incorporation of a loan corporation or of a loaning land corporation shall be made by petition to the Lieutenant-Governor in Council through the Minister in the prescribed form, and shall be delivered to the Registrar.

Notice of application.

(2) The applicants shall for one month next before filing their application with the Registrar publish a notice thereof in the *Ontario Gazette*, and shall also before such filing give

the like notice at least once in a newspaper published in the locality in which the head office is to be established.

(3) The notice shall state the proposed corporate name, Contents.
the location of the head office, which shall be in Ontario, the purposes of the corporation, and for what amount of permanent capital stock authorization will be asked, with the number of shares and the par value of the share.

(4) The applicants shall furnish such further information Further information.
as may be required by the Minister or the Registrar.

(5) The application shall be accompanied by the original, Application to be accompanied by a declaration.
or one of the duplicate originals, of a declaration adopted at a general meeting of the promoters, and executed under their respective hands and seals by at least twenty-five persons present at the meeting who are subscribers for shares.

(6) The declaration shall set out the names in full and the address and calling of each of the declarants and shall declare: that the said declarants assembled at Its contents.
on (naming the place and time); being chairman, and being secretary of the meeting (naming them) did there and then agree to constitute themselves a provisional corporation by the name of (mentioning the proposed corporate name) under *The Loan and Trust Corporations Act*, and under the proposed by-laws there and then adopted, and annexed to the declaration; also that the following persons, five in number (naming them) were elected provisional directors.

(7) The Minister may refer the application or any question arising thereunder to the Registrar for a report, and the Registrar shall report thereon. Reference to Registrar and his report. 2 Geo. V. c. 34, s. 3.

4.—(1) Three copies of the proposed by-laws shall accompany the declaration, one copy duly certified being annexed thereto. By-laws to accompany declaration.

(2) Subject to this Act the by-laws shall make provision for the following matters:— What they shall provide for.

- (a) The proposed corporate name, and the location of the head office of the corporation;
- (b) The purposes for which the corporation is to be constituted;
- (c) They shall declare that the capital stock of the company consists exclusively of permanent capital stock divided into a stated number of shares each of a stated uniform amount; and shall also declare what respective amounts of such capital stock are before the commencement of business to be authorized, subscribed, and paid in; with the proviso that no shares shall be issued at a

discount, or upon any terms, agreement or understanding that the taker or holder shall be liable for any less amount than the par value of the shares, less the calls paid thereon;

- (d) They shall define and regulate the exercise of such general powers of borrowing as are by this Act conferred upon loan corporations and loaning land corporations, and shall declare within what limits such borrowing powers are to be exercised, and whether by issuing debentures or debenture stock or otherwise;
- (e) They shall provide for the holding of general meetings, ordinary and special, of the shareholders; shall prescribe the time and place of the ordinary general meetings, of which one at least shall be held in each year, and the notice to be given of ordinary general meetings, and the notice to be given of special general meetings;
- (f) They shall provide for the election of directors, prescribe their number, powers, duties, and term of office, and the number necessary to constitute a quorum;

(See also as to term of office, etc., s. 83, et seq.)

- (g) They shall prescribe the securities, and the minimum amount thereof, to be taken for the fidelity of the person or persons having custody or control of the funds of the corporation;
- (h) They shall provide for the proper audit, at least yearly, of the books and accounts of the corporation by two or more competent accountants, who shall not be otherwise employed by the corporation or be otherwise officers thereof;
- (i) They shall require that there be delivered to each shareholder before the annual meeting a financial statement, verified by the auditors, showing fully and truly the income and expenditure, including the expenses of management, of the corporation for the period audited, and the liabilities and assets of the corporation as at the date of the statement;
- (j) They shall provide for their amendment by the shareholders in general meeting, after at least thirty days' notice in writing of the particular amendment or amendments proposed has been given to each shareholder and to the Registrar.

5. A sworn copy of the stock subscription shall also be filed with the Registrar containing such particulars as he may require. 2 Geo. V. c. 34, s. 5. Stock subscription.

6. On receiving an application for incorporation or registry if the Minister finds in the by-laws of the applicant anything repugnant to this Act or to the law of Ontario he may direct an amendment of the by-laws; and, upon their being amended as directed and returned certified as having been so amended, the application may be proceeded with. 2 Geo. V. c. 34, s. 6. Minister may direct amendment of by-laws.

7.—(1) For purposes of incorporation the applicants shall prove to the satisfaction of the Registrar that at least \$300,000 of stock has been subscribed for and taken up *bona fide* by responsible subscribers, each of the applicants holding at least ten shares in his own right and to his own use, that in the case of trust companies at least \$100,000, and in other cases at least \$30,000, of such subscribed stock has been paid by the subscribers into a branch or agency in Ontario of some chartered bank of Canada in trust for the proposed corporation, and that each subscriber has out of his own money contributed to the amount so paid in rateably according to the number of shares subscribed for by him. Prerequisites to incorporation.

See Order in Council of 28th October, 1907.

(2) Where the corporation is not to be a trust company and is to be constituted for the purpose of acquiring the assets of one or more existing corporations and the proposed consideration for the transfer of such assets is to consist wholly or in part of shares of the capital stock of the new corporation, the Lieutenant-Governor in Council may dispense to such extent as he may deem proper with the requirements of subsection 1 as to subscription and payment. 2 Geo. V. c. 34, s. 7. New corporation acquiring assets of existing corporation.

8. Subject as hereinafter provided the par value of a share of capital stock shall not be less than \$50 nor more than \$100. 2 Geo. V. c. 34, s. 8. Par value of share.

9.—(1) All stock and shares in corporations hereafter incorporated shall be fixed, permanent and non-withdrawable. All stock to be permanent.

(2) A corporation which had not on or prior to the seventeenth day of March, 1900, issued terminating stock or shares shall not make or issue such stock or shares. Unless issued prior to 17th March, 1900.

(3) A corporation not registered on the first day of July, 1900, shall not be granted registry if the stock or shares of the corporation consist of or include terminating stock or shares. 2 Geo. V. c. 34, s. 9. Corporation not registered on 1st July, 1900, not to be registered if any part of its stock is terminating.

Letters
patent.

10.—(1) A grant of incorporation shall be by Letters Patent.

Contents.

(2) The Letters Patent shall set forth the name under which, and the date at which, the corporation became incorporated; the location of the head office; the amount of stock authorized; and the business to be undertaken by the corporation, distinguishing between the classes of business mentioned in section 115. 2 Geo. V. c. 34, s. 10.

Application
for letters
patent by
existing
corporation.

11.—(1) A Provincial corporation incorporated for purposes or objects within the scope of this Act, whether under a special or general Act, and being at the time of its application a subsisting and valid corporation, may apply for Letters Patent under this Act; and the Lieutenant-Governor in Council may grant Letters Patent incorporating the shareholders or members of the corporation as a corporation under this Act.

Powers may
be extended
and new
name given.

(2) Where an existing corporation applies for the issue of Letters Patent under the provisions of subsection 1 the Lieutenant-Governor in Council may by Letters Patent extend the powers of the corporation to such other objects within the scope of this Act as the applicant desires, and give to it the name of the old corporation or any other name.

Rights of
creditors
preserved.

(3) All rights of creditors against the property, rights and assets of a corporation re-incorporated under the provisions of this section, and all liens upon its property, rights and assets shall be unimpaired by such re-incorporation, and all debts, contracts, liabilities and duties of the original corporation shall thenceforth attach to the new corporation, and may be enforced against it to the same extent as if such debts, contracts, liabilities and duties had been incurred or contracted by it. 2 Geo. V. c. 34, s. 11.

Period.

12.—(1) Incorporation may be granted without limitation of time, or for any limited term of years not less than ten.

Term to be
specified if
limited.

(2) Where incorporation is granted for a limited term of years the Letters Patent shall specify the first and the last day of the term.

Forfeiture of
charter for
non-user.

(3) If a corporation incorporated under the law of Ontario does not go into actual *bona fide* operation within two years after incorporation, or at any time for two consecutive years does not use its corporate powers for the purposes set forth in the Act or instrument of incorporation, such non-user shall *ipso facto* work a forfeiture of the corporate powers except so far as may be necessary for winding up the corporation.

Onus of
proof of
user.

(4) In any action or proceeding where such non-user is alleged proof of user shall lie upon the corporation.

(5) Where incorporation has been granted for a limited term application may, upon the like notice as is required by section 3, be made on or before the expiry of the term for the renewal or extension of the incorporation, and the incorporation may be renewed or extended by Letters Patent either without limitation of time or for a limited term. 2 Geo. V. c. 34, s. 12.

13. Where incorporation is granted the provisional directors named in the declaration of the applicants shall be the first directors of the corporation, and shall continue in office until their successors are duly elected. 2 Geo. V. c. 34, s. 13.

14. The by-laws accompanying the declaration, mentioned in sections 3 and 4, with such amendments thereof as may have been required by the Minister, shall be the first by-laws of the corporation and shall take effect and be in force from the date of the incorporation. 2 Geo. V. c. 34, s. 14.

TRUST COMPANIES.

Incorporation.

15.—(1) Letters Patent of incorporation of a trust company may issue where it is shown to the satisfaction of the Lieutenant-Governor in Council that, in the locality in which the head office of the proposed company is to be situate, there exists a public necessity for a trust company or for an additional trust company.

(2) At all times at least three-fourths of the shares of a company shall be held by persons who are residents of Ontario, or by companies incorporated under the law of Ontario.

(3) If at any time it is shown to the satisfaction of the Lieutenant-Governor in Council that less than three-fourths of the shares of the company are so held the Letters Patent incorporating the company may be revoked under the provisions of section 21.

(4) Letters Patent shall not issue unless the Lieutenant-Governor in Council is satisfied that the fitness of the applicants to discharge the duties of a trust company is such as to command the confidence of the public, and that the public convenience and advantage will be promoted by granting to the company the powers applied for. 2 Geo. V. c. 34, s. 15.

16. The proceedings leading to incorporation shall be as hereinbefore prescribed for the incorporation of loan corporations. 2 Geo. V. c. 34, s. 16.

Powers and Liabilities.

Prohibition
against
taking
deposits or
issuing
debentures.

17.—(1) A trust company incorporated under the law of Ontario shall not borrow money by taking deposits or by issuing debentures or debenture stock, and Letters Patent incorporating any such company shall expressly prohibit it from so doing.

(See Order in Council of 28th Oct., 1907.)

Certain un-
dertakings
not to be
deemed
debentures.

(2) Where money is entrusted to the company for the *bona fide* purpose of its being invested by the company as trustee for, or as agent of the person by whom it is entrusted, the guarantee by the company of the repayment of the same or of the payment of the interest thereon at such rate as may be agreed on on fixed days shall not be deemed to be a debenture nor shall the money be deemed to be money borrowed by the company by issuing debentures within the meaning of subsection 1. 2 Geo. V. c. 34, s. 17.

Powers
which may
be conferred
on trust
companies.

18.—(1) Subject to the provisions of the next preceding three sections, and to the law of Ontario, the Letters Patent may authorize the company to exercise any or all of the following powers:

Accept
property on
trust.

(a) To take, receive and hold all estates and property, real and personal, which may be granted, committed, transferred or conveyed to the company with its consent, upon any trust or trusts whatsoever not contrary to law, at any time or times, by any person or persons, body or bodies corporate, or by any Court in Ontario;

Accept
deposits of
property for
safe keeping.

(b) To take and receive as trustee or as bailee, upon such terms and for such remuneration as may be agreed upon, deeds, wills, policies of insurance, bonds, debentures or other valuable papers or securities for money, jewelry, plate or other chattel property of any kind, and to guarantee the safe keeping of the same;

Act as
attorney or
agent.

(c) To act generally as attorney or agent for the transaction of business, the management of estates, the collection of loans, rents, interest, dividends, debts, mortgages, debentures, bonds, bills, notes, coupons and other securities for money;

Issue and
counter-sign
stock
certificates,
bonds, etc.

(d) To act as agent for the purpose of issuing or countersigning certificates of stock, bonds or other obligations of any association or municipal or other corporation, and to receive, invest and manage any sinking fund therefor on such terms as may be agreed upon;

Manage
sinking
funds.

Act as exe-
cutor, etc.

(e) To accept and execute the offices of executor, administrator, trustee, receiver, liquidator, assignee,

or of trustee for the benefit of creditors under any Act of this Legislature, and of guardian of any minor's estate, or committee of any lunatic's estate; to accept the duty of and act generally in the winding up of estates, partnerships, companies and corporations;

- (f) To invest any trust money in the hands of the company in any securities in which private trustees may by law invest trust money, and also in the debentures of any municipal corporation in the Provinces of Manitoba, Saskatchewan, or Alberta, or in any other province which may be named by the Lieutenant-Governor in Council; Invest trust funds.
- (g) To guarantee any investment made by the company as agent or otherwise; Guarantee investments.
- (h) To sell, pledge or mortgage any mortgage or other security, or any other real or personal property held by the company, and to make and execute all requisite conveyances and assurances in respect thereof; Sell or mortgage property.
- (j) To make, enter into, deliver, accept and receive all deeds, conveyances, assurances, transfers, assignments, grants and contracts necessary to carry out the purposes of the company, and to promote its objects and business; Make deeds, transfers, etc.
- (k) And for all such services, duties and trusts to charge, collect and receive all proper remuneration, legal, usual and customary costs, charges and expenses. Collect costs, charges and expenses for services.

(2) A trust company may invest any money held by it other than trust money, in any of the securities authorized in the case of a loan corporation or loaning land corporation, by section 27. 2 Geo. V. c. 34, s. 18. Investment of its own funds.

19. The liability of a trust company to persons interested in an estate held by the company as executor, administrator, trustee, receiver, liquidator, assignee, guardian, or committee shall be the same as if the estate had been held by any private person in the like capacity, and the company's powers shall be the same. 2 Geo. V. c. 34, s. 19. Liability, extent of. O.C., 28th Oct., 1907.

20.—(1) Where a trust company is authorized to execute the office of executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee, and the Lieutenant-Governor in Council approves of such company being accepted as a trust company for the purposes of the Supreme Court, every Court or Judge having authority to appoint such an officer may, with the consent of the company, appoint such company to exercise any of such offices in respect of any estate Approval of company for the acceptance of the Court in certain fiduciary officers.

Proviso.

or person under the authority of such Court or Judge, or may grant to such company probate of any will in which such company is named as an executor; but no company which has issued or has authority to issue debentures or debenture stock, or which has received or has authority to receive deposits, shall be approved.

Appointment of company as sole

(2) A trust company so approved may be appointed to be a sole trustee, notwithstanding that but for this Act it would be necessary to appoint more than one trustee.

or joint trustee.

(3) A trust company so approved may be appointed to any of the offices mentioned in subsection 1 jointly with another person.

When appointment may be made by court.
Rev. Stat. c. 121.

(4) Such appointment may be made whether the trustee is required under the provisions of any deed, will or document creating a trust or whether the appointment is under the provisions of *The Trustee Act* or otherwise.

Security not required.

(5) Notwithstanding any rule or practice or any provision of any Act requiring security it shall not be necessary for the company to give any security for the due performance of its duty as such executor, administrator, trustee, receiver, liquidator, assignee, guardian or committee unless otherwise ordered.

Revocation of approval.

(6) The Lieutenant-Governor in Council may at any time revoke the approval given under this section. 2 Geo. V. c. 34, s. 20.

REVOCATION OF CHARTER.

Amendment, suspension or revocation of charter or powers.

21. The charter or powers of a corporation may, at any time, for cause shown to his satisfaction, be amended, suspended or revoked and made void by the Lieutenant-Governor in Council. 2 Geo. V. c. 34, s. 21.

EXTRA PROVINCIAL BUSINESS.

Extension of business beyond the Province.

22.—(1) Where the existence or operation of a Provincial corporation is not by the Act or instrument constituting it, limited in time or area the corporation may, in general meeting of the members, called for that purpose by notice duly given, pass a by-law authorizing its directors to extend the business of the corporation beyond Ontario, but in compliance with the law of the country to which the business may be so extended; and the directors may give effect to such by-law without being liable or responsible as for any breach of trust in so doing.

Erection or purchase of buildings required for use of corporation in the foreign jurisdiction.

(2) Where, as provided in this section, a Provincial corporation carries on business outside of Ontario the corporation may in general meeting of the members, called for that purpose by notice duly given, pass a by-law authorizing the directors to invest the money of the corporation in the erection or purchase of buildings required for the occupation

of the corporation in any place where the corporation is so carrying on business and in conformity with the law of the country in which such place is situate. 2 Geo. V. c. 34, s. 22.

CALLS—LIABILITY OF SHAREHOLDER.

23.—(1) The directors may call in and demand from the shareholders the amount unpaid on shares by them subscribed or held at such times and places and in such payments or instalments as the Special Act, Letters Patent or this Act, or the by-laws of the corporation require or allow; and interest shall accrue upon the amount of any unpaid call from the day appointed for payment thereof.

Calling in instalments.

(2) The demand shall state that in the event of non-payment the shares in respect of which the call was made will be liable to be forfeited. 2 Geo. V. c. 34, s. 23.

Demand to state liability to forfeiture.

(3) If after the demand any call is not paid within the time and in the manner provided by the Special Act, the Letters Patent, Supplementary Letters Patent or the by-laws, the directors, by resolution to that effect reciting the facts and duly recorded in their minutes, may summarily forfeit any shares whereon such payment is not made, and the same shall thereupon become the property of the company and may be disposed of as, by by-law or otherwise, the company may ordain; but such forfeiture shall not relieve the shareholder of any liability to the company or to any creditor. See 2 Geo. V. c. 31, s. 60 (3).

Forfeiture of share.

24.—(1) Every shareholder, until the whole amount of his shares has been paid up, shall be individually liable to the creditors of the company to an amount equal to that not paid up thereon, but shall not be liable to an action therefor by any creditor before an execution against the company has been returned unsatisfied in whole or in part; and the amount due on such execution, but not beyond the amount so unpaid on such shares, shall be the amount recoverable, with costs, against such shareholder.

Liability of shareholders.

(2) Any shareholder may plead by way of defence, in whole or in part, any set-off which he could set up against the company, except a claim for unpaid dividend, or a salary or allowance as a president or a director of the company. 2 Geo. V. c. 34, s. 24.

Set-off.

LENDING POWERS.

The Contract of Loan.

25.—(1) No borrower, whether he is or is not a shareholder in the corporation, shall be bound by the by-laws or rules thereof unless either the words "subject to the by-laws of the corporation," or the words "subject to the rules" 15 s.—II.

When borrower bound by rules.

of the corporation," as the case may be, are printed in conspicuous type on the back, and as part of the indorsement of the mortgage or other security given by him.

Who to be
subject to
by-laws, etc.

(2) Although the mortgage or other security is so endorsed a borrower from the corporation who is not a shareholder shall not be subject to the by-laws or rules unless the mortgage or other security expressly stipulates that they shall form part of the contract or obligation entered into by the borrower. 2 Geo. V. c. 34, s. 25.

Contract of
loan to be by
instrument
setting out
all the terms.

26.—(1) Where any loan or advance is made by a corporation the contract shall be evidenced by a written instrument within or on which all the terms and conditions of the contract shall be clearly set out; and unless so set out no term of, or condition, stipulation, warranty, by-law, resolution, rule or proviso varying or modifying the contract shall be valid or shall be admissible in evidence to the prejudice of the borrower; but nothing in this section shall prevent the application to the contract of the provisions of section 25 or of *The Mortgages Act*; or shall prevent the use in the contract of the short form authorized by *The Short Forms of Mortgages Act*, if such contract is expressed to be in pursuance of the last mentioned statute.

Proviso.

Rev. Stat.
c. 112.

Rev. Stat.
c. 117.

Contract not
to be affected
by subse-
quent by-
laws, etc.

(2) As against the borrower, whether a shareholder or member or not, the contract shall not be in anywise altered, varied or affected by any by-law, resolution or rule of the corporation subsequently passed or adopted.

Instrument
to state
particulars
of payment
required to
discharge.

(3) The instrument shall fully and clearly state by the payment of what specific sum or sums, at a place and time or times stated, the loan or mortgage debt is to be discharged; and in case the loan or mortgage debt is dischargeable by instalments or periodical payments shall further clearly set out the several amounts of such instalments or periodical payments and the number thereof respectively required to discharge the loan or mortgage debt.

Borrower not
liable for
losses or for
impairment
of capital.

(4) No term or condition of the contract of loan, or of any contract or agreement collateral thereto, shall render the borrower liable to contribute for losses of the corporation or to make good any impairment of its capital.

Effect of non-
compliance.

(5) Where the instrument does not comply with the requirements of this section the loan or mortgage debt shall be held to consist of the principal sum or sums actually received by the borrower, less any sum or sums repaid by, or standing to the credit of, the borrower, together with simple interest thereon calculated at the legal rate of interest on such sum or sums of principal for the actual time or times during which the borrower has had the use thereof.

Application
of section.

(6) This section shall apply to every contract of loan made or renewed in Ontario after the first day of June.

1904, by any corporation to any borrower on the security of any property, or made or renewed to any borrower elsewhere on the security of property situate in Ontario, and shall have effect as against the lender notwithstanding any stipulation or agreement to the contrary. 2 Geo. V. c. 34, s. 26.

Investments. Holding Land Reserve Fund.

27.—(1) A registered loan corporation and a registered loaning land corporation may lend money on the security of, or purchase or invest in the following:—

(a) Mortgages, charges, or hypothecs upon real estate in Ontario or in any other country to which the corporation is authorized to extend its business under the provisions of section 22, or mortgages or assignments of such life insurance policies as have at the date of the loan or investment an ascertained cash surrender value admitted by the insurer;

May lend on certain securities.
Real estate and life insurance.

(b) Debentures, bonds, paid up stock and other securities, except bills of exchange and promissory notes, of or guaranteed by any government, or of any municipal corporation or school corporation or of any chartered bank or incorporated company, if such bank or company is incorporated by Canada, or by any Province of Canada, or by any former Province now forming part of Canada.

Government, municipal, school and company debentures and paid-up stock.

R.S.C. c. 79, s. 198.

(2) Subject always to the limitations imposed by section 32 any such corporation heretofore so authorized may, notwithstanding the provisions of subsection 1, invest in and lend upon real estate or securities other than those in that subsection mentioned.

Powers continued.

(3) Any such corporation may take personal security as collateral for any advance made or to be made or for any debt due to such corporation.

Personal security as collateral.

(4) Any such corporation may, with the assent of two-thirds of the shareholders present or represented by proxy at an annual or special general meeting, called with due notice of such proposal, lend upon the security of the debentures, bonds, obligations or paid-up stock of any corporation other than those corporations heretofore in this section mentioned, but the aggregate of all such lending shall not exceed at any one time twenty-five per cent. of the paid-in capital of the lending corporation, and where the borrower is a corporation shall not exceed at any one time twenty-five per centum of the paid-in capital of the borrowing corporation.

Loans on other classes of security with assent of two-thirds of shareholders.

Power to do acts and to exercise remedies.

(5) The corporation may do all acts that are necessary for advancing such sums of money, and for receiving and obtaining repayment thereof, and for compelling the payment of all interest accruing due thereon, and the observance and fulfilment of any conditions annexed to the advance, and for enforcing the forfeiture of any term or property consequent on the non-fulfilment of such conditions, or of conditions entered into for delay of payment. 2 Geo. V. c. 34, s. 27.

May hold certain estates and interests in land; and may dispose of same.

28.—(1) A registered corporation may hold real estate which, having been mortgaged or hypothecated to it, has been acquired by it for the protection of its investment, and real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, and may from time to time sell, mortgage, lease, exchange or otherwise dispose of the same; and may sell or otherwise dispose of as it deems advisable any mortgage or security which it has lawfully acquired.

Limitation of time for holding except in case of loaning land corporation.

(2) The corporation, not being a loaning land corporation registered under this Act, shall, subject to the provisions of the next following section, sell any real estate acquired by it under any mortgage, charge or hypothecation, or in satisfaction of any debt, within twelve years after it has been so acquired, otherwise it may be forfeited to His Majesty for the use of Ontario; but no such forfeiture shall be enforced until the expiration of six calendar months after notice in writing to the corporation of the intention of His Majesty to claim such forfeiture.

Powers as grantor or grantee, assignor or assignee.

(3) The corporation may give receipts, acquittances and discharges, either absolutely and wholly or partially, and may grant or take such deeds, assignments or other instruments as are necessary for carrying any such holding, purchase, exchange or re-sale into effect; and the grantee or assignee in any such instrument shall stand in the place of, and be entitled to, and have all the same rights, powers and remedies, and shall be subject to the same obligations and liabilities as the grantor or assignor would have been entitled to or would have been subject to if the grant or assignment had not been made. 2 Geo. V. c. 34, s. 28.

Power to hold real estate for business.

29. A registered corporation may hold absolutely to its own use and benefit such real estate as is necessary for the transaction of its business, or is acquired or held *bona fide* for building upon or improving for that purpose, and may sell, mortgage or dispose of the same. 2 Geo. V. c. 34, s. 29.

Power to construct larger building and to lease part thereof.

30. A registered corporation, when so authorized by the Letters Patent or by the Lieutenant-Governor in Council, may acquire or may construct, on any lands so held, a building larger than is required for the transaction of its business and may lease any part of such building not so required. 2 Geo. V. c. 34, s. 30.

31. A registered corporation may maintain a reserve fund ^{Reserve fund.} out of its earnings or other income not required to meet its present liabilities. 2 Geo. V. c. 34, s. 31.

Loans to Shareholders upon Shares.

32.—(1) A loan corporation and a loaning land corpora- ^{Prohibition or limitation of loans upon shares.} tion may pass a by-law prohibiting absolutely the loaning to shareholders upon the security of their shares, or, subject to the limitations contained in this section, may pass a by-law fixing the aggregate amount which may be loaned on such shares, and neither of such by-laws shall be repealed until all liabilities of the corporation are discharged.

(2) Subject to subsection 1 the corporation may lend upon ^{Limitation as to loans on its own stock.} its own paid-up stock to an amount not exceeding at any one time in the aggregate of all such loans ten per centum of the corporation's paid-up stock.

(3) No such loan shall exceed eighty per cent. of the mar- ^{Margin.} ket price of the stock. 2 Geo. V. c. 34, s. 32.

33. A corporation shall not, except in the manner provided ^{Not to lend on own stock.} by section 32, lend on its own shares with or without collateral security. 2 Geo. V. c. 34, s. 33.

*Interest; Payments of Blended Interest and Principal;
Limitation of Mortgage's Liability for Interest.*

34. Subject to the provisions of the next following section ^{Rate of interest.} a registered corporation may stipulate for, take, reserve and exact any rate of interest or discount that may lawfully be taken by individuals, and may also receive payment at any ^{R.S.C., 1906, c. 120, s. 1.} time on any loan or advance. 2 Geo. V. c. 34, s. 34.

35.—(1) Wherever any principal money or interest secured ^{No interest recoverable in certain cases unless the mortgage contains a certain statement.} by mortgage of real estate is, by the same, made payable on the sinking fund plan, or on any plan under which the payments of principal money and interest are blended, or on any plan which involves an allowance of interest on stipulated repayments, no interest whatever shall be chargeable, payable or recoverable on any part of the principal money advanced, unless the mortgage contains a statement showing the amount of such principal money and the rate of interest chargeable thereon, calculated yearly or half-yearly, not in advance. ^{R.S.C., 1906, c. 120, s. 6.}

(2) Wherever the rate of interest shown in such statement ^{No rate recoverable beyond that shown in such statement.} is less than the rate of interest which would be chargeable by virtue of any other provision, calculation or stipulation in the mortgage, no greater rate of interest shall be chargeable, payable or recoverable on the principal money advanced than the rate shown in such statement. ^{R.S.C., 1906, c. 120, s. 7.}

No fine allowed on payments in arrear which has the effect of increasing the rate of interest.

Proviso: as to interest on arrears of interest.

R.S.O., 1906, c. 120, s. 8.

Overcharge may be recovered back.

R.S.C., 1906, c. 120, s. 9.

No further interest payable after five years on certain conditions.

R.S.C., 1906, c. 120, s. 10.

Application of Rev. Stat. c. 112.

Alteration of borrowing powers.

Rights of creditors preserved.

Application of secs. 39 to 49.

(3) No fine or penalty or rate of interest shall be stipulated for, taken, reserved or exacted on any arrears of principal or interest secured by mortgage of real estate which has the effect of increasing the charge on any such arrears beyond the rate of interest payable on principal money not in arrears; but nothing in this section shall have the effect of prohibiting a contract for the payment of interest on arrears of interest or principal at any rate not greater than the rate payable on principal money not in arrear.

(4) If any sum is paid on account of any interest, fine or penalty not chargeable, payable or recoverable under the three subsections next preceding such sum may be recovered back, or deducted from any other interest, fine or penalty chargeable, payable or recoverable on the principal.

(5) Wherever any principal money or interest secured by mortgage of real estate is not, under the terms of the mortgage, payable till a time more than five years after the date of the mortgage, then if at any time after the expiration of such five years any person liable to pay or entitled to redeem the mortgage tenders or pays to the corporation entitled to receive the money the amount due for principal money and interest to the time of payment as calculated under the preceding subsections of this section, together with three months' further interest in lieu of notice, no further interest shall be chargeable, payable or recoverable at any time thereafter on the principal money or interest due under the mortgage. 2 Geo. V. c. 34, s. 35.

36. Sections 14 and 15 of *The Mortgages Act* shall apply to all mortgages to loan corporations. 2 Geo. V. c. 34, s. 36.

BORROWING POWERS.

37.—(1). Any corporation may with the assent of the Lieutenant-Governor in Council evidenced by Letters Patent elect to renounce its existing borrowing powers and to accept those conferred by this Act.

(2) Such alteration of borrowing powers shall not prejudice or affect any existing rights of creditors or any obligations entered into by such corporation prior to such assent. 2 Geo. V. c. 34, s. 37.

Loan Corporations and Loaning Land Corporations.

38. Sections 39 to 49 shall apply to corporations incorporated under the law of Ontario or having their head offices in Ontario other than trust companies, and also to all loan corporations borrowing in Ontario by taking deposits or issuing debentures, debenture stock or like obligations, and to all loaning land corporations so borrowing by issuing debentures, debenture stock or like obligations. 2 Geo. V. c. 34, s. 38.

39.—(1) No corporation constituted with joint stock capital, unless and until it has a subscribed permanent stock of at least \$300,000 on which at least \$100,000 has been actually paid in and is unimpaired, and no corporation constituted without joint stock capital, unless and until it has a paid up, unimpaired, permanent and non-withdrawable capital of at least \$100,000, shall exercise any of the borrowing powers conferred by this Act.

Amount of capital to be subscribed and paid before borrowing.

(2) Where a registered corporation constituted with joint stock capital has subscribed permanent stock of at least \$300,000, on which at least \$100,000 has been actually paid in and is unimpaired, or where a registered corporation constituted without joint stock capital has a paid up, unimpaired, permanent and non-withdrawable capital of at least \$100,000, subject to the limitations and restrictions contained in this Act, the directors, pursuant to powers conferred in that behalf by any by-laws or rules of the corporation passed at any general meeting, called with due notice of such proposed by-laws and rules, may borrow money on behalf of the corporation at such rates of interest, and upon such terms as they from time to time think proper; and may for that purpose, subject as hereinafter provided, receive money on loan or on deposit, other than and in addition to money received in respect of stock and shares of the corporation, and issue debenture stock and terminable debentures, bonds and other obligations, as well as execute mortgages under the seal of the corporation, for sums of not less than \$100 each; or may assign, transfer or deposit by way of equitable mortgage or otherwise, for the sum so borrowed, any of the documents of title, deeds, muniments, securities or property of the corporation, and either with or without power of sale or other special provisions, as they deem expedient. 2 Geo. V. c. 34, s. 39.

Borrowing powers.

40.—(1) A loan corporation shall not, without the express consent of the shareholders given at a general meeting called with due notice of the proposal, receive money on deposit, otherwise than in respect of shares or stock of the corporation; and when money is otherwise received on deposit the same shall, for the purposes of this Act, be deemed to be money borrowed by the corporation; and with interest thereon as agreed shall be repayable by the corporation either at a time certain, or upon notice, not being less than thirty days, unless notice, or such notice, is waived.

Loan corporations receiving money on deposit.

(2) A corporation which is authorized to carry on any other business than that of lending money shall not be entitled to receive deposits; but this shall not apply to a loaning land corporation which was authorized to receive deposits by Letters Patent issued under any former Act and which is now exercising this power.

Other corporations.

Ranking of
creditors
on deposits.

(3) In respect of deposits, creditors shall rank upon the assets of the corporation *pari passu* with the holders of debentures and debenture stock.

Limit of
deposits.

(4) The amount to be received by any corporation entitled as hereinbefore provided to receive deposits shall not at any time exceed the aggregate amount of the then actually paid in and unimpaired permanent capital and of the then actual reserve fund of the corporation and of its cash actually in hand or in any chartered bank to the credit of the corporation and beneficially owned by the corporation and not included in either the permanent capital or reserve fund.

Dividends,
etc., not to
be paid out
of reserve.

(5) No dividend or bonus shall be paid or declared either wholly or in part out of the reserve fund which has the effect of diminishing such aggregate below the amount required by this Act for the borrowings of the corporation. 2 Geo. V. c. 34, s. 40.

Denomination
and term
of debentures.

41.—(1) Debentures shall be for such sums, not being less than \$100, and in such currency as the directors deem advisable, and shall be payable not less than one year, nor more than ten years, from the issue thereof, at such place as may be therein mentioned.

Limit of
amount
borrowed.

(2) If the corporation borrows money solely on debentures or other securities and not by way of deposit under section 40, the aggregate amount of the sums so borrowed shall not at any time exceed four times the amount of its paid in and unimpaired capital, or at the option of the corporation the amount of its subscribed, fixed and permanent capital, upon which not less than twenty per centum has been paid.

Enlarged
borrowing
powers not
to prejudice
certain de-
benture
holders.

(3) In the event of a corporation incorporated before the 4th day of May, 1891, availing itself of the provisions of this Act, or having availed itself of the provisions of any Act of Ontario passed after the 3rd day of May, 1891, to enlarge its powers of borrowing money by debentures nothing herein shall affect or impair the rights of the holders of debentures issued by such corporation.

Limit of
amount
where cor-
poration
borrows both
on securities
and on de-
posits.

(4) If a loan corporation borrows money both by way of debentures or other securities, and also by way of deposit, such corporation shall, in respect of deposits received, comply with section 40, and the aggregate amount of its total borrowings shall not at any time exceed the amount of the principal moneys remaining unpaid on securities then held by the corporation, or, in the alternative, shall not exceed the amount of the reserve fund of the corporation and four times the amount of its then actually paid-in and unimpaired permanent capital; but in calculating such aggregate for the purposes of this subsection the amount of cash beneficially owned by the corporation then either actually in the hands of the corporation or deposited by it in any chartered bank shall be deducted. 2 Geo. V. c. 34, s. 41.

42. In ascertaining the extent of the borrowing powers of a corporation all loans or advances to its shareholders upon the security of their shares shall be deducted from the amount of the paid-in capital. 2 Geo. V. c. 34, s. 42.

Deduction to be made in estimating the paid in capital.

43. The directors of a registered corporation to which sub-section 2 of section 39 applies may, from time to time with the consent of a majority of the shareholders, present in person or represented by proxy, at a general meeting called with due notice of the proposal, issue debenture stock which shall be treated and considered as a part of the debenture debt, authorized by section 41, in such amounts and manner, on such terms, and bearing such rate of interest, and in such currency as the directors from time to time think proper, but so that the amount received as money deposits and borrowed on the security of debentures, mortgages, bonds, or other instruments or debenture stock shall not in the whole exceed the aggregate amount fixed by sections 40, 41, and 42 as the limit of the borrowing powers of the corporation. 2 Geo. V. c. 34, s. 43.

Issuing debenture stock.

44. The holders of debenture stock shall not in respect thereof have any of the rights of shareholders, but, subject to sections 40 and 45, shall be entitled to the rights and powers of mortgagees of the undertaking to the extent provided in the by-laws of the corporation authorizing such debenture stock, but without the right to require repayment of the principal money paid in respect thereof. 2 Geo. V. c. 34, s. 44.

Rights of holders of debenture stock.

45.—(1) Debenture stock shall rank equally with debentures issued, or to be issued, by the corporation, and the holders thereof shall not be liable or answerable for any debts or liabilities of the corporation.

Debenture stock, how ranked.

(2) In case of a liquidation of the corporation, or other distribution of its assets, a holder of debenture stock shall for arrears of interest, if any, and for the then present or capitalized value of the future interest annually payable rank *pari passu* with depositors and debenture holders. 2 Geo. V. c. 34, s. 45.

Ranking of debenture stockholders in respect of interest.

46. The corporation shall cause entries of the debenture stock from time to time created to be made in a register, to be known as the Debenture Stock Register, which, in the case of a corporation having its head office in Ontario, shall be kept for that purpose at the head office, wherein shall be entered the names and addresses of the several persons and corporations from time to time entitled to the debenture stock, with the respective amounts of the stock to which they are respectively entitled; and the register shall, during reasonable business hours of every day, except holidays, be accessible for inspection and perusal by himself or his agent

Register of debenture stock.

to every debenture holder, mortgagee, bondholder, debenture-stockholder and shareholder of the corporation without the payment of any fee or charge. 2 Geo V. c. 34, s. 46.

Transfer of
debenture
stock.

47.—(1) Debenture stock shall be transferable in such amounts and in such manner as the directors may determine.

Registry of
transfer.

(2) All transfers thereof shall be registered at the head office.

Transfer
books out
of Ontario.

(3) The corporation may have transfer books for the purposes of such debenture stock at such place or places in Canada, in Great Britain and Ireland, or any foreign country in which transfers of the stock may be made; but all such transfers shall be entered in the book to be kept at the head office. 2 Geo. V. c. 34, s. 47.

Certificates
of debenture
stock.

48. The corporation shall deliver to every holder of debenture stock a certificate stating the amount of the debenture stock held by him, the rate of interest payable thereon and the terms and conditions to which the stock is subject; and all regulations and provisions for the time being applicable to certificates of shares in the capital stock of the corporation shall apply, *mutatis mutandis*, to certificates of debenture stock. 2 Geo. V. c. 34, s. 48

Exchange of
debentures
for, and re-
demption of
debenture
stock.

49. The holders of debentures of the corporation may, with the consent of the directors, at any time exchange such debentures for debenture stock; and the corporation may from time to time purchase in the open market and, with the consent of the holders thereof, redeem any part of the debenture stock representing money which the directors, by resolution, determine not to be required for the business of the corporation. 2 Geo. V. c. 34, s. 49.

AMALGAMATION OF CORPORATIONS AND PURCHASE AND SALE OF ASSETS.

Loan Companies and Loan Land Companies.

Power to
unite with
other cor-
porations
and to pur-
chase or sell
assets.

50. A corporation to which subsection 2 of section 39 applies may, as hereinafter prescribed, unite, merge, amalgamate and consolidate its stock, property, business and franchises with those of any other registered corporation, or may sell its assets to any such corporation which is hereby authorized to purchase the same, or may purchase the assets of any such corporation which is hereby authorized to sell the same, and for the purpose of carrying out such purchase or sale the corporation purchasing shall assume the liabilities of the corporation selling, and may enter into such bond or agreement of indemnity with the corporation or the individual shareholders thereof, or both, as may be necessary, and may enter into the contracts and agreements necessary to such union, merger, amalgamation, consolidation, sale, purchase or acquisition. 2 Geo. V. c. 34, s. 50.

51.—(1) The directors of a corporation to which subsection 2 of section 39 applies, and of any other corporation mentioned in section 50, may enter provisionally into a joint agreement under the corporate seal of each of the corporations for the union, merger, amalgamation or consolidation of such corporations, or for the sale or purchase by the one corporation of the assets of the other corporation.

Directors may make agreement for amalgamation or for purchase or sale of assets.

(2) The agreement shall prescribe the terms and conditions of the proposed transaction, and the mode of carrying the same into effect.

Matters to be specified in agreement.

(3) If the two corporations are to be merged into one corporation the agreement shall specify the name of the new or of the continuing corporation, and the number of directors and other officers thereof, and shall state who shall be the first directors and officers, the capital stock, the number of shares into which such stock is divided, the par value of the shares and the manner of converting the capital stock of each of the existing corporations into that of the new or continuing corporation.

Idem.

(4) The agreement shall contain such other details as the directors of the several corporations deem necessary to perfect the new organization, and the union, merger, amalgamation and consolidation, and the after management and working thereof, or to complete the terms and mode of payment for the assets of one corporation sold, purchased or acquired by the other.

Other details.

(5) In any agreement for the purchase and sale of assets the consideration may consist wholly or in part of partly paid or of paid-up shares of the permanent capital stock of the purchasing corporation.

Consideration.

(6) Such agreement, or if no agreement has been entered into but an offer has been made by a corporation under its corporate seal for the purchase of the assets of another corporation such offer, shall be submitted to the shareholders of each corporation at a meeting thereof to be held separately for the purpose of taking the agreement or the offer into consideration.

Agreement to be subject to approval of shareholders.

(7) Notice of the time and place of the meeting of the corporation in which he holds shares and the objects thereof shall be given by written or printed notice addressed to every shareholder, together with a copy of the proposed agreement, at his last known post office address or place of residence, and also by a general notice in a newspaper published at the chief place of business of the corporation once a week for six successive weeks.

Notice of meeting to consider agreement.

(8) The like notice, together with two copies of the proposed agreement, shall be delivered to the Registrar at least one month before the date of either of the meetings of shareholders called to consider it.

Notice to registrar.

Proceedings
to ratify
agreement.

52. At each of the meetings of shareholders the agreement or offer shall be considered, and a vote by ballot taken for the ratification or acceptance, or for the rejection of the same, each share entitling the holder thereof to one vote and the ballots being cast in person or by proxy, and if two-thirds of the votes of all the shareholders of each corporation, representing not less than two-thirds in value of its paid in capital or stock, are for the ratification of the agreement or the acceptance of such offer, that fact shall be certified upon the agreement or offer by the secretary or manager under the corporate seal. 2 Geo. V. c. 34, s. 52.

Who may
vote.

53. The shareholders who may vote at any such meeting shall be those only whose names are duly entered in the books of the corporation at the date of the first publication of the notice calling the meeting, and they shall vote only upon the shares then standing in their respective names. 2 Geo. V. c. 34, s. 53.

Dispensing
with ratifi-
cation.

54. The Lieutenant-Governor in Council, in the case of a proposed purchase of assets, may dispense with the ratification or acceptance of the agreement or offer by the shareholders of the purchasing corporation where it is shown to his satisfaction that such shareholders, after due notice thereof, have ratified a general resolution or by-law authorizing the purchase of the assets of any loan corporation upon the basis and within the limits specified in such agreement or offer. 2 Geo. V. c. 34, s. 54.

Ratified
agreement
to be filed
with Regis-
trar for
assent.

55.—(1) If the agreement is ratified or the offer is accepted at the meeting of the shareholders of each of the corporations, or in the case provided for in the next preceding section at the meeting of the shareholders of the selling corporation, the agreement or offer, with the certificates or certificate thereon, shall be filed with the Registrar.

Assent of
Lieutenant-
Governor
in Council.
Effect of
assent.

(2) The Registrar shall submit such agreement or offer for the assent of the Lieutenant-Governor in Council.

(3) After the assent of the Lieutenant-Governor in Council thereto the agreement or offer shall be deemed to be the agreement and act of union, amalgamation and consolidation of the corporations, or the agreement and deed of purchase and acquisition of the assets of the selling corporation by the purchasing corporation. 2 Geo. V. c. 34, s. 55.

Certificate
of assent by
Minister

56.—(1) Upon proof that the foregoing requirements have been duly complied with the Minister shall issue a certificate under his hand and seal certifying the assent of the Lieutenant-Governor in Council and the date thereof, and declaring the purchase and the sale of the assets and the names of the corporations parties thereto, or, in the case of amalgamation, declaring the amalgamation of the corporations, naming them, and the name of the new or of the con-

tinuing corporation, together with such other matters, if any, as may appear to him necessary or desirable in the public interest.

(2) The certificate of the Minister shall for all purposes and in all courts be conclusive evidence of all matters therein certified or declared. Effect as evidence.

(3) The Registrar shall give public notice in the *Ontario Gazette* of the issue of the Minister's certificate. Publication.

(4) It shall be sufficient to register a certified copy of the Minister's certificate once for all in each Registry Division or Land Titles Office in which instruments affecting lands or interests in lands included or intended to be included in the transfer or amalgamation, are registered. Registration of certificate of assent to amalgamation, etc.

(5) The fee payable for the registration thereof shall be one dollar if the certificate is five folios or under, and for each folio above five ten cents additional. Fee payable for registration.

(6) Any document under the hand, or purporting to be under the hand, of the Registrar, certifying such document to be or to contain a true copy of the Minister's certificate or of any instrument referred to in such certificate, shall be registered by the Registrar in any Registry Division, or by the Master or Local Master of Titles upon the same being tendered to him for registration accompanied by the proper fee. Certificate of Registrar, registration of.

(7) The certificate shall be entered in the General Register of the Registry Division or in the book kept in the Land Titles Office. Registration in general register.

(8) Copies so certified of any such certificate or instrument shall be received by the Master of Titles and Local Masters of Titles, under the provisions of *The Land Titles Act*, as conclusive evidence of all matters therein certified or declared. Certified copies of certificate as evidence before Master of Titles. Rev. Stat. c. 126.

(9) For the purpose of any instrument required to be registered or filed under *The Bills of Sale and Chattel Mortgage Act*, it shall be sufficient in order to show the transmission of title in respect of any personal property or interest in personal property included, or intended to be included, in a transfer or amalgamation, such as is mentioned in section 55 and this section, if the instrument affecting such property or interest recites the certificate registered as provided in subsection 4 of this section, and states the registry division in which the same is registered and its registration number. As to Bills of Sale and Chattel Mortgages Rev. Stat. c. 135.

(10) This section shall extend to and include any such certificate or certified copy issued or purporting to have been issued under *The Loan Corporations Act* since the thirteenth day of April, 1897. 2 Geo. V. c. 34, s. 56. Application of section. R.S.O., 1897, c. 205.

Evidence of assent of the Lieutenant-Governor in Council.

57. The Registrar may, by a certificate under his hand and seal, indorsed upon or identifying the agreement or offer mentioned in subsection 6 of section 51, or any counterpart or copy thereof, certify that such agreement or offer has been assented to by the Lieutenant-Governor in Council, and his certificate with a copy of the Order in Council attached shall be *prima facie* evidence of such assent. 2 Geo. V. c. 34, s. 57.

Assets of selling corporation to vest in purchasing corporation.

58.—(1) In the case of a purchase and sale of assets so assented to the assets of the selling corporation shall become absolutely vested in the purchasing corporation on and from the date of such assent without any further conveyance and the purchasing corporation shall thereupon become and be responsible for the liabilities of the selling corporation.

Disposal of assets by purchasing corporation.

(2) In dealing with the assets of the selling corporation it shall be sufficient for the purchasing corporation to recite the agreement and the assent of the Lieutenant-Governor in Council thereto, with the date of such assent.

Rights of creditors.

(3) No such transfer shall affect the rights of any creditor of the transferring corporation.

Privity of contract between purchasing corporation and each creditor of selling corporation.

(4) By every such agreement made or purporting to be made under this Act the purchasing corporation shall be deemed to covenant and agree with each creditor of the selling corporation that the purchasing corporation will pay to him the sum in which the selling corporation is indebted to him at such time and place as such sum would have been payable had such agreement not been made.

Dissolution of selling corporations and of corporations amalgamated.

(5) Where the Lieutenant-Governor in Council assents to an agreement for the sale of the assets of a corporation, or to an agreement for the amalgamation of two or more corporations, the selling corporation, or the several corporations amalgamated, as the case may be, shall, from the date of such assent, be dissolved except so far as is necessary to give full effect to the agreement. 2 Geo. V. c. 34, s. 58.

Property and rights of both companies vested in new corporation.

59.—(1) In the case of an amalgamation the corporations parties thereto shall, from the date of the assent of the Lieutenant-Governor in Council, be consolidated and amalgamated and be merged in and form one corporation by the name stated in the Minister's certificate, and shall, subject to the law of Ontario, possess all the rights, privileges and franchises of each of the amalgamated corporations.

Business and property vested in new corporation.

(2) From the date of the assent all the business property, real and personal, and all rights and incidents appurtenant thereto, all stock, mortgages, or other securities, subscriptions and other debts due on whatsoever account, and other things in action belonging to each of such corporations shall be vested in the new or continuing corporation without further act or deed.

(3) All rights of creditors and liens upon the property of each of the corporations shall be unimpaired by the amalgamation. Creditors' rights.

(4) All debts, liabilities and duties of each of the amalgamated corporations shall thenceforth attach to the new or continuing corporation, and may be enforced against it to the same extent as if the same had been incurred or contracted by it. 2 Geo. V. c. 34, s. 59. Debts and liabilities.

Trust Companies.

60.—(1) In this section "Fiduciary" shall include trustee, executor, administrator, assignee, guardian, committee, receiver, liquidator or agent; and "Instrument" shall include every will, codicil, or other testamentary document, settlement, instrument of creation, deed, mortgage, assignment, Act of the Legislature, and a judgment, decree, order, direction and appointment of any court, judge, or other constituted authority. Interpretation. "Fiduciary." "Instrument."

(2) Sections 50 to 59 shall apply to the purchase and sale of the assets of a trust company by and to another and to the amalgamation of trust companies, such corporations being incorporated under the law of Ontario or having their head offices in Ontario, and registered under this Act. Sections 50 to 59 to apply to trust corporations.

(3) On and from the assent of the Lieutenant-Governor in Council, as provided in subsection 1 of section 56, to the purchase and sale, or to the amalgamation, all trusts of every kind and description, including incomplete or inchoate trusts, and every duty assumed by or binding upon either of the corporations, parties to the purchase and sale, or to the amalgamation, shall be vested in and bind and may be enforced against the purchasing or new or continuing corporation as fully and effectually as if it had been originally named as the fiduciary in the instrument. Trusts to pass to new corporations.

(4) Whenever in any instrument any estate, money or other property, or any interest, possibility or right is intended at the time or times of the publishing, making or signing of the instrument to be thereafter vested in or administered or managed by or put in the charge of the selling corporation or of either of the amalgamated corporations as the fiduciary, the name of the new or continuing corporation shall be deemed to be substituted for the name of the old corporation; and such instrument shall vest the subject-matter therein described in the new or continuing corporation according to the tenor of, and at the time indicated or intended by the instrument, and the new or continuing corporation shall be deemed to stand in the place and stead of the old corporation. Subject matter of trust to vest in new corporation.

(5) Where the name of the selling corporation or of either of the amalgamated corporations appears as executor, trustee, References in will or codicil.

tee, guardian, or curator in a will or codicil such will or codicil shall be read, construed and enforced as if the new or continuing corporation was so named therein; and it shall, in respect of such will or codicil, have the same status and rights as the selling or amalgamating corporation.

Duties of old corporation not completed.

(6) In all probates, administrations, guardianships, curatorships or appointments of administrator or guardian *ad litem* heretofore issued or made by any Court of Ontario to the selling corporation or to either of the amalgamated corporations, from which at the date of such assent it had not been finally discharged, the new or continuing corporation shall *ipso facto* be substituted therefor. 2 Geo. V. c. 34, s. 60.

SHAREHOLDERS AND DEPOSITORS.

Co-partners and corporate bodies.

61. Corporate bodies and co-partners may hold shares in any registered corporation. 2 Geo. V. c. 34, s. 61.

Certain minors may make deposits.

62. A person not of the full age of twenty-one years but of the age of fifteen years or upwards may deposit money with a registered loan corporation in his own name, and the same may be repaid to him, and he may give a valid discharge therefor, notwithstanding his minority. 2 Geo. V. c. 34, s. 62.

EXECUTION OF TRUSTS.

Trusts.

63.—(1) A corporation shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any share of its stock, or any deposit, debenture, or debenture stock may be subject.

Sufficient discharge.

(2) The receipt of the person in whose name any such share, deposit, debenture or debenture stock stands in the books of the corporation shall be a sufficient discharge to the corporation for any payment made in respect thereof, notwithstanding any trust to which the same may then be subject and whether the corporation has or has not had notice of such trust.

Application of money paid.

(3) A corporation shall not be bound to see to the application of the money paid upon such receipt.

Representatives, guardians, or trustees not to be personally liable.

(4) No person holding shares in the corporation as executor, administrator, guardian, committee of a lunatic, or trustee of or for any estate, trust or person named in the books of the corporation as being so represented by him, shall be personally subject to any liability as a shareholder, but the estate and funds in his hands shall be liable in like manner and to the same extent as the testator, intestate, ward or person interested in such trust fund would be if living and competent to hold the shares in his own name.

(5) If the trust is for a living person, not under disability, ^{Liability of beneficiary.} such person also shall be liable as a shareholder.

(6) If such testator, intestate, ward, lunatic or person so ^{Where beneficiary etc., not named, trustee, etc. liable.} represented is not named in the books of the corporation the executor, administrator, guardian, committee or trustee shall be personally liable in respect of such shares as if he held them in his own name as owner thereof. 2 Geo. V. c. 34, s. 63.

EXECUTION CREDITORS; NOMINATION BY INVESTOR OR DEPOSITOR;
 INTESACY; PAYMENTS UNDER MISTAKE; TRANSMISSION OF
 INTEREST.

64.—(1) Any surplus not exceeding \$300 over and above ^{Disposition of proceeds of sale under mortgages.} the amount due to the corporation, including costs, derived from the sale under power of sale of any property mortgaged to the corporation, where the mortgagor or his assigns has or have died intestate, shall be personal property, whether the sale took place before or after the death of the mortgagor or person entitled to the equity of redemption.

(2) Where the surplus exceeds \$300 nothing in this sec- ^{Rights of execution creditors.} tion shall prejudice any right or lien of an execution creditor in respect of such excess. 2 Geo. V. c. 34, s. 64.

65. To the extent of \$300 the amount standing to the ^{Exemption.} credit of any depositor in a registered corporation shall not, while in the hands of the corporation or while in course of transmission from the corporation, be liable to demand, seizure or detention under legal process as against the depositor or his nominee, assignee, or representative, or as against any person to whom the corporation is by the two next following sections authorized to pay said sum. 2 Geo. V. c. 34, s. 65.

66.—(1) A depositor with a loan corporation having on deposit a sum not exceeding \$300 may, from time to time, ^{When depositors may nominate a successor.} by a writing signed by him and deposited with the corporation, nominate any person to receive the money at his death.

(2) Upon receiving an affidavit of the death of the de- ^{Substitution of nominee on death of nominator.} positor the directors may substitute on the books of the corporation the name of the nominee in the place of the depositor, or may immediately pay to the nominee the amount due to the deceased. 2 Geo. V. c. 34, s. 66.

67. If a depositor with a loan corporation, having on deposit a sum not exceeding \$300, dies intestate and without ^{Disposition of funds of intestate members.} making such nomination, the amount due may, without let- ters of administration being taken out, be paid to the person who appears to the directors to be entitled under *The Devolu- tion of Estates Act* to receive the same, upon receiving an affidavit of the death and intestacy, and that the person claiming is so entitled. ^{Rev. Stat. c. 119} 2 Geo. V. c. 34, s. 67.

Payments
by mistake
by the
corporation,
when valid.

68. Where the directors, after the death of a depositor, have paid such sum to the person who at the time appeared to be entitled to the same under the belief that the depositor died intestate without having appointed any nominee the payment shall be valid and effectual with respect to any demand from any other person as next of kin or as the lawful representative of the deceased against the corporation; but the next of kin or representative shall be entitled to recover the amount of such payment from the person who received the same. 2 Geo. V. c. 34, s. 68.

STATUTORY MEETING.

Statutory
meetings.

69.—(1) Every corporation shall, within a period of not less than one month nor more than three months from the date at which the corporation is entitled to commence business, hold a general meeting of its shareholders which shall be called the statutory meeting.

Report to be
sent to
shareholders.

(2) The directors shall, at least ten days before the day on which the meeting is to be held, forward to every shareholder of the corporation a report certified by not less than two directors of the corporation stating:

- (a) The total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted;
- (b) The total amount of cash received by the corporation in respect of such shares, distinguished as aforesaid;
- (c) An abstract of the receipts and payments of the corporation on capital account to the date of the report, and an account or estimate of the preliminary expenses of the corporation;
- (d) The names, addresses and descriptions of the directors, auditors, if any, manager, if any, and secretary of the corporation; and
- (e) The particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification or proposed modification.

Report to be
certified by
auditors.

(3) The report, so far as it relates to the shares allotted by the corporation, and to the cash received in respect of such shares, and to the receipts and payments of the corporation on capital account, shall be certified as correct by the auditors, if any, of the corporation.

(4) The directors shall cause a copy of the report, certified as by this section required, to be filed with the Registrar forthwith after the sending thereof to the shareholders of the corporation. Report to be filed with Registrar.

(5) The directors shall cause a list showing the names, descriptions and addresses of the shareholders, and the number of shares held by them, respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any shareholder of the corporation during the continuance of the meeting. Lists of shareholders to be produced at meeting.

(6) The shareholders present at the meeting shall be at liberty to discuss any matter relating to the formation of the corporation, or arising out of the report, whether previous notice has been given or not, but no resolution of which notice has not been duly given may be passed. Shareholders may discuss business of company at meeting.

(7) The meeting may adjourn from time to time, and at any such adjourned meeting any resolution of which notice has been duly given, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting. Adjournments.

(8) If default is made in filing such report or in holding the statutory meeting, then at the expiration of fourteen days after the last day on which the meeting ought to have been held any shareholder may petition the Court for the winding up of the corporation, and the Court may either direct that the corporation be wound up or give directions for the report being filed or a meeting being held, or make such other order as may be just, and may order that the costs of the petition be paid by any persons who, in the opinion of the Court, are responsible for the default. 2 Geo. V. c. 34, s. 69. Application to Court if default made in holding meeting.

GENERAL MEETINGS OF SHAREHOLDERS.

70.—(1) A general meeting of the shareholders shall be held at least once in each year for the purpose of considering the financial statement of the corporation, and the election of directors and auditors, and the transaction of such other business as is proper at such regular general meeting under the law of Ontario and the by-laws of the corporation. Annual general meeting.

(2) Notice of the time and place of the holding of the annual general meeting of the shareholders shall be delivered, or shall be sent by post to the address of each shareholder so far as the same is known, or, on request, to his proxy residing in North America or the United Kingdom; and such notice of the meeting shall be so delivered or sent at least fifteen days previously to the time fixed for holding such meeting, and a copy of the annual statement of the directors shall accompany the notice. 2 Geo. V. c. 34, s. 70. Notice of annual meeting.

Special
general
meetings
by resolution
of directors;

71.—(1) The directors shall have the right at any time by resolution of the board passed in that behalf to call a special general meeting of the shareholders for the transaction of any business specified in such resolution.

or on requisition of
shareholders.

(2) One-fourth part in value of the shareholders of the corporation shall, by requisition delivered to the manager, acting manager, or secretary thereof, have at all times the right to have a special general meeting called by such officer for the transaction of any business specified in such requisition.

Notice re-
quired for
special gen-
eral meeting.

(3) Notice of the holding of every special general meeting of the shareholders, specifying the time and place of the meeting and the business to be transacted thereat, shall be delivered, or shall be sent by registered post, to the address of each shareholder, so far as the same is known, at least ten days before the day appointed for the meeting.

Other busi-
ness not to
be trans-
acted except
by unani-
mous
consent.
Proof of
notice.

(4) No other business shall be transacted at any such meeting unless all the shareholders are present in person or by proxy and unanimously consent thereto.

(5) Before the business of any special general meeting is proceeded with there shall be produced and read a statutory declaration of the manager, acting manager or secretary of the corporation that the requirements of this section as to notice have been fully complied with.

Minutes.

(6) A copy of the notice so delivered or sent, and of such declaration in relation thereto, shall be entered in the minute book of the corporation as part of the proceedings of the meeting. 2 Geo. V. c. 34, s. 71.

Penalty.

72. Any director or officer of any Provincial corporation wilfully neglecting or omitting to give effect to the requisition mentioned in section 71, or to give the notice of any general meeting required by sections 70 or 71 shall be guilty of an offence. 2 Geo. V. c. 34, s. 72.

Voting power
of share-
holders.

73. At all meetings of shareholders of the corporation a shareholder shall have one vote for each share held by him upon which he is not six months in arrear. 2 Geo. V. c. 34, s. 73.

Proxies.

74. A shareholder may either vote in person or be represented and vote by a proxy who is a shareholder of the corporation and not six months in arrear. 2 Geo. V. c. 34, s. 74.

Minute book
of corpora-
tion.

75. The transactions of all general meetings of the corporation and of all meetings of the board of directors shall be entered in a book to be known as the Minute Book of the corporation. 2 Geo. V. c. 34, s. 75.

BY-LAWS.

76. A meeting of the shareholders, called with due notice thereof, may make such lawful and proper by-laws for the government of the corporation, not repugnant to the provisions of this Act or any other law in force in Ontario, as the majority of the shareholders present in person or by proxy deem meet. 2 Geo. V. c. 34, s. 76.

Shareholders
may make
by-laws.

77. Every by-law shall be reduced to writing and shall have affixed thereto the common seal of the corporation, and shall be receivable in evidence without proof of the seal or of the signature or of the official character of the person or persons appearing to have signed the same, and without further proof thereof. 2 Geo. V. c. 34, s. 77.

To be
sealed.

Evidence
thereof.

78.—(1) The by-laws shall be forthwith recorded in a book to be kept by the corporation for that purpose and to be known as the "By-Law Book."

By-laws to
be recorded.

(2) Such book shall, without the payment of any fee or charge, during reasonable business hours of every day, except holidays, be open for the inspection of any shareholder, depositor, debenture holder, or debenture-stockholder by himself or his agent, and every such person may make extracts therefrom. 2 Geo. V. c. 34, s. 78.

Right to
inspect by-
law book.

79. Every corporation shall deliver to the Registrar within one month after the passing thereof a certified copy of its by-laws and of every repeal, or addition to, or amendment or consolidation thereof. 2 Geo. V. c. 34, s. 79.

Copy of by-
laws, etc., to
be filed with
Registrar.

80.—(1) Every corporation doing business in Ontario, if required so to do by the Registrar, shall furnish satisfactory evidence that any by-law has been duly passed, and is a legal and valid by-law according to the Act or instrument incorporating the company and also that the by-law conforms to the law of Ontario.

Return of
evidence as
to By-laws.

(2) A corporation refusing or failing to furnish such evidence promptly shall be liable to have its registry suspended or cancelled. 2 Geo. V. c. 34, s. 80.

Refusal to
furnish
evidence.

81.—(1) The shareholders in general meeting may by by-law, of which as proposed notice shall be given to each shareholder with the notice of such meeting, empower the directors to make, amend and repeal by-laws for the corporation.

Delegating
to directors
power to
make or
amend
by-laws.

(2) Every such by-law of the directors and every repeal, amendment or re-enactment thereof, unless in the meantime confirmed at a general meeting of the corporation duly called for that purpose, shall have force only until the next annual meeting of the corporation; and in default of confirmation thereat shall, at and from that time, cease to have force; and

Confirmation
necessary.

in that case no new by-law to the same or the like effect or re-enactment thereof shall have any force until confirmed at a general meeting.

By-laws may
be varied.

(3) The corporation may either at a general meeting duly called for that purpose, or at the annual meeting repeal, amend, vary or otherwise deal with any by-law passed by the directors; but no act done or right acquired under any by-law shall be prejudicially affected by any such repeal, amendment, variation, or other dealing. 2 Geo. V. c. 34, s. 81.

Alteration at
general
meeting.

82. At such general meeting the shareholders may, by a like vote, alter or amend such by-laws, and may confirm the same as so altered and amended. 2 Geo. V. c. 34, s. 82.

BOARD OF DIRECTORS, ITS CONSTITUTION AND POWERS.

Term of
office.

83.—(1) The term of office of the directors shall not exceed two years.

Number.

(2) Where the term of office is one year only the number of directors shall not be less than five.

Idem.

(3) Where the term of office is two years the number of directors shall be an even number not less than six, and one-half of the directors shall retire annually at the general meeting in rotation, but shall, if otherwise qualified, be eligible for re-election.

Retirement
by lot.

(4) Where the term of office is two years the first elected directors shall at their first meeting determine by lot which of them shall retire at the end of the first year. 2 Geo. V. c. 34, s. 83.

Ballot.

84.—(1) The election of directors shall be by ballot.

Qualifica-
tion of
directors.

(2) No person shall be qualified to be a director unless he is of the full age of twenty-one years and is a shareholder holding, in his own right, shares or stock of the corporation, on which at least \$1,000 has been paid in, and is not in arrear in respect of any call thereon.

Majority to
be residents
and British
subjects.

(3) The majority of the directors shall at all times be resident in Ontario and subjects of His Majesty by birth or naturalization.

Not to apply
to next
election of
directors.

(4) Where, at the time of the coming into force of this Act, less than a majority of the directors are resident in Ontario and subjects of His Majesty by birth or naturalization, the provisions of subsection 3 shall not apply to such corporation until the time fixed for the next general annual meeting.

New election
to fill
directorships
in such case.

(5) Where at an election more than the prescribed number of non-residents and aliens are elected, a new election shall forthwith be held to fill all the directorships to which aliens

or non-residents have been elected, and so on until the number of non-residents or aliens is reduced to the prescribed number.

(6) The remuneration of directors shall be fixed by the shareholders in general meeting. 2 Geo. V. c. 34, s. 84. Remuneration. R.S.C. c. 79, s. 127.

85. If at any time an election of directors is not held, or does not take effect at the proper time, the corporation shall not be thereby dissolved, but the election may take place at any general meeting of the corporation duly called for that purpose, and the retiring directors shall continue in office until their successors are elected. 2 Geo. V. c. 34, s. 85. Provision in case of failure of election.

86. Vacancies occurring in the board of directors may be filled for the unexpired remainder of the term by the board from among the qualified shareholders of the corporation. 2 Geo. V. c. 34, s. 86. Interim vacancies.

87. In every Provincial corporation the directors shall and may lawfully exercise all the powers of the corporation except as to such matters as are directed by law or by the by-laws of the corporation to be transacted at a general meeting thereof and have not been by a general meeting delegated to the directors as provided by section 81. 2 Geo. V. c. 34, s. 87. Powers of directors.

88. The directors shall from time to time elect from among themselves a president and vice-president, and they shall in all things delegated to them act for and in the name of the corporation, and the concurrence of a majority of the directors present at any meeting shall at all times be necessary to any act of the board. 2 Geo. V. c. 34, s. 88. President and vice-president.

89. On any question before the board each director shall have one vote, and in the event of an equality of votes the president or presiding officer shall have a second or casting vote. 2 Geo. V. c. 34, s. 89. Casting vote.

90.—(1) The shareholders of a corporation having more than six directors may, at a general meeting called for that purpose, by resolution of two-thirds of the shareholders present in person or by proxy, authorize the directors to delegate any of their powers to an executive committee consisting of not less than three to be elected by the directors from their number. Executive Committee.

(2) A committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed upon them by such resolution or by the directors. Committee's powers.

(3) Where directors delegate any of their powers to an executive committee the powers so delegated shall be stated in writing and entered in the minute book of the corporation. 2 Geo. V. c. 34, s. 90. Delegated powers to be recorded in minute book.

General powers of directors.

91.—(1) Subject to this Act, and to the Act or instrument constituting the corporation and to the by-laws of the corporation, the directors may:

Use of seal.

(a) Use or cause to be used and affixed the seal of the corporation, and may affix or cause it to be affixed to any document or paper which in their judgment may require the same;

Making, etc., calls.

(b) Make and enforce calls upon the shares of the respective shareholders;

Forfeiture of shares.

(c) Declare the forfeiture of all shares on which such calls are not paid;

Making payments, and entering into contracts.

(d) Make any payments and advances of money they may deem expedient which are authorized to be made by or on behalf of the corporation, and enter into all contracts for the execution of the purposes of the corporation, and for all other matters necessary to the transaction of its affairs;

Dealing with property.

(e) Generally deal with, sell, exchange, lease and dispose of the lands, property and effects of the corporation in such manner as they deem expedient and conducive to the benefit of the corporation;

Other acts.

(f) Do and authorize, assent to or adopt all acts required for the due exercise of any further powers and authorities conferred by this Legislature. 2 Geo. V. c. 34, s. 91.

By-laws for particular purposes.

92.—(1) The directors of any Provincial corporation, authorized as provided by section 81, may make by-laws, not contrary to law or to the special Act or to this Act, to regulate:

Stock.

(a) The allotment of stock, the issue of shares, the making of calls thereon, the payment thereof, the issue and registration of certificates of shares or stock, the forfeiture of shares for non-payment, the disposal of forfeited shares and of the proceeds thereof, the transfer of shares or stock, and subject to section 98 hereof the sub-division of existing shares into shares of smaller amount;

Dividends.

(b) The declaration and payment of dividends;

Officers.

(c) Subject to the provisions of section 102 the appointment, functions, duties and removal of all agents, officers and servants of the corporation, and their remuneration;

Procedure.

(d) The calling of meetings of the directors and the procedure at such meetings;

Miscellaneous.

(e) The conduct in all other particulars of the affairs of the corporation. 2 Geo. V. c. 34, s. 92.

93.—(1) Except with the consent of the directors no payment on account of capital stock shall be made in advance of calls thereon. Payments on shares in advance of calls.

(2) In respect of any sum so paid a shareholder shall be entitled to participate in any dividend declared, but it shall not bear interest and shall not constitute a loan to or a debt of the corporation. Right to participate in dividends.

(3) The shareholder shall be entitled to have any such advance payment credited to him *pro tanto* as against subsequent calls. 2 Geo. V. c. 34, s. 93. To be credited as against subsequent calls.

TRANSFER OF SHARES.

94.—(1) If the interest of any person in any share in the capital stock, or debenture stock, or in any bond, debenture or obligation of a corporation, not payable to bearer, is transmitted in consequence of the death, or bankruptcy, or insolvency of such person, or by means other than a transfer upon the books of the corporation, the directors shall not be bound to allow any transfer pursuant to such transmission to be entered upon such books, or to recognize such transmission in any manner until a statutory declaration showing its nature and signed by the person claiming by virtue thereof, and also by the former shareholder, if living and competent to make the same, has been filed with the corporation and approved by the directors. Proof necessary on transmission of shares by death, etc.

(2) If the declaration purports to be so signed and to be made or acknowledged in the presence of a notary public, or of a Judge of a Court of Record, or of a mayor of any city, town or borough or other place, or a British Consul or Vice-Consul, or other accredited representative of the British or Canadian Government, the directors may, in the absence of actual notice of a contrary claim, give full credit to the declaration. 2 Geo. V. c. 34, s. 94. Discretion of directors.

95.—(1) Where the directors entertain reasonable doubts as to the legality of any claim to or upon any such share, bond, debenture, obligation, or to or upon any dividend, coupon or the proceeds thereof, they may apply to the Supreme Court, stating such doubt, for an order or judgment adjudicating upon such claim, and awarding such share, bond, debenture, obligation, dividend, coupon or proceeds to the person legally entitled to the same, and the Court may restrain any action or proceeding against the corporation, or the directors or officers thereof, for the same subject-matter, pending the determination of the application. When directors have reasonable doubts as to legality of claim.

(2) If the order or judgment of the Court is obeyed the corporation and the directors and officers shall be fully protected and indemnified against all actions, claims and demands in respect of the matters in question in such application and the proceedings thereupon. 2 Geo. V. c. 34, s. 95. Order of Court to be indemnity to company.

Restrictions
on transfer.

96. Subject to subsection 4 of section 97, no by-law shall be passed which in any way restricts the right of a holder of paid-up shares to transfer the same, but nothing in this subsection shall prevent the regulation of the mode of transfer thereof. 2 Geo. V. c. 34, s. 96.

When
directors'
consent
required.

97.—(1) No transfer of shares of a Provincial corporation, the whole amount whereof has not been paid, shall be made without the consent of the directors.

Their
liability.

(2) Where any such transfer is made with the consent of the directors to a person who is not apparently of sufficient means to fully pay up such shares, subject to subsection 3, the directors shall be jointly and severally liable to the creditors of the company in the same manner and to the same extent as the transferring shareholder, but for such transfer, would have been.

Relief from
liability by
entering
protest.

(3) If any director present when any such transfer is allowed, forthwith, or if any director then absent, within twenty-four hours after he becomes aware of such transfer, and is able to do so, enters on the minute book of the corporation his protest against the same, and within eight days thereafter causes such protest to be notified, by registered letter, to the Minister and the Registrar, such director shall thereby exonerate himself from such liability. 2 Geo. V. c. 34, s. 97 (1-3).

R.S.C. 1906,
c. 79, ss. 65,
98.

Liability
where call
remains
unpaid.

(4) Where a share upon which a call is unpaid is transferred with the consent of the directors, the transferee shall be liable for the call to the same extent and with the same liability to forfeiture of the shares if the call remains unpaid, as if he had been the holder when the call was made, and the transferor shall remain also liable for the call until it has been paid. See 2 Geo. V. c. 31, s. 55 (4).

Where
transferor
indebted.

(5) Where the Letters Patent or the by-laws of a corporation confer that power on the directors they may decline to register a transfer of shares belonging to a shareholder who is indebted to the corporation. 2 Geo. V. c. 34, s. 97 (4).

INCREASE OR DECREASE OF CAPITAL STOCK.

Increase of
permanent
capital
stock.

98.—(1) The directors of any registered corporation incorporated by or under the law of Upper Canada or of the Province of Canada, or of Ontario, may, at any time after ninety per centum of the permanent capital stock of the corporation has been subscribed and ninety per centum thereof paid in, but not sooner, by by-law provide for the increase of the permanent capital stock to any amount which the directors may consider requisite.

Decrease of
permanent
capital
stock.

(2) The directors may at any time by by-law provide for the decrease of the permanent capital stock to any amount not less than \$100,000, which they may consider sufficient.

(3) The by-law shall declare the number and par value of the shares of the stock so increased or decreased and provide for the manner in which they are to be allotted, or the rule or rules by which the allotment is to be made.

By-law to declare number and par value of new shares.

(4) The directors may pass a by-law providing upon terms therein stated for the conversion of partly paid up shares into paid up shares of its permanent capital stock.

Conversion of partly paid up shares.

(5) The liability of shareholders to persons who, at the time the stock or shares are so increased, decreased, converted or altered, are creditors of the corporation shall remain as though the stock or shares had not been increased, decreased, converted, or altered.

Rights of creditors preserved.

(6) A copy of every such proposed by-law shall be delivered to the Registrar at least six weeks before being passed by the directors.

Copy to registrar.

(7) Before submission of the by-law to a meeting of shareholders, as provided in subsection 9, such notice shall be given by publication and otherwise as the Registrar shall direct.

Notice of by-law to shareholders.

(8) No by-law for, or having the effect of, increasing or decreasing the permanent capital stock or shares of the corporation, whether such stock or shares are or are not subscribed or issued, or for, or having the effect of, sub-dividing such shares or altering the par value of such shares, or altering the liability of any holder of such stock or shares, or converting partly paid-up shares into paid-up shares, shall have any force or validity until it has been duly adopted and ratified by a vote of shareholders present or represented by proxy at a general meeting of the corporation duly called for considering such by-law, and holding not less than two-thirds of the issued capital stock of the corporation represented at such meeting, and has afterwards been confirmed by the Lieutenant-Governor in Council.

Such by-laws relating to stock or shares to be confirmed by Order-in-Council.

(9) The Lieutenant-Governor in Council may grant such confirmation, if he is satisfied of the *bona fide* character of the changes provided for in the by-law, unless it appears that the confirmation of the by-law would not be in the public interest.

When confirmation may be granted.

(10) With the consent of the corporation, evidenced by a resolution of the directors, the changes provided for in any such by-law may be varied or amended by the confirming order-in-council, and may be made subject to such conditions as the Lieutenant-Governor in Council may deem proper.

Varying by-law on confirmation.

(11) The confirmation by the Lieutenant-Governor in Council may be evidenced by a certificate of the Minister or by a certified copy of the Minister's certificate in the like manner and with the like effect as provided in sections 56 and 57.

Evidence of confirmation by Lieutenant-Governor in Council.

Certificate
to be con-
clusive.

(12) Such certificate shall be conclusive evidence of all matters therein certified or declared, and of the due performance of all matters precedent or preliminary to the granting thereof. 2 Geo. V. c. 33, s. 98.

BOOKS TO BE KEPT BY CORPORATIONS.

Record books
to be kept
and contents.

99.—(1) Every corporation having its head office in Ontario shall cause a book or books to be kept at such head office by the secretary, or by some other officer specially charged with that duty, wherein shall be kept recorded:

Copy of
constating
instrument.

(a) A copy of the letters patent or other instrument or Act constituting the corporation, and of any instrument or Act amending or supplementing the same;

By-laws.

(b) All by-laws of the corporation;

Names of
shareholders
and their
addresses.

(c) The names alphabetically arranged of all persons who at and after the passing of this Act are or shall be holders of shares or stock, with the address and calling of every such person while such shareholder; the amounts paid in and remaining unpaid respectively on the stock of each shareholder; and all transfers of stock in their order as presented to the corporation for entry, with the date and other particulars of each transfer, and the date of the entry thereof;

Payments

Transfers.

Debenture
stock.

(d) The like particulars respecting holdings and transfers of debenture stock;

Names, etc.,
of directors.

(e) The name, address and calling of every person who at and after the passing of this Act is or shall be a director of the corporation, with the dates at which he became and ceased to be such director.

Books to be
open for
inspection.

(2) Such books shall, without the payment of any fee or charge, during reasonable business hours of every day, except holidays, be kept open for the inspection of shareholders, depositors, and holders of debentures or debenture-stock of the corporation and their personal representatives, and every such person may, by himself or his agent, make extracts therefrom.

Right to
make
extracts.

Forfeiture
for neglect.

(3) Every such corporation which neglects to keep such book or books shall be liable to forfeit its registry under this Act; and, if a provincial corporation, shall also be liable to forfeit its corporate franchise and rights.

Penalty for
false
entries.

(4) No auditor, director, officer or servant of the corporation shall knowingly make or assist in making any untrue entry in any such book, or shall refuse or neglect to make any proper entry therein.

(5) Any person violating the provisions of this section shall, besides any criminal liability which he may thereby incur, be liable in damages for all loss or injury which any person interested may have sustained thereby. 2 Geo. V. c. 34, s. 99. Liability for damages.

100.—(1) A register of securities shall be kept by every corporation. Register of securities.

(2) The register of a corporation having its head office in Ontario shall include all securities held by the corporation. Where head office in Ontario.

(3) The register of any other corporation shall include all the securities held upon or in respect of property in Ontario. Other corporations.

(4) Within thirty days after the taking of a security a proper entry, specifying the nature and amount of such security, and the names of the parties thereto, with their proper additions, shall be made in such register. 2 Geo. V. c. 34, s. 100. Entry of securities as taken.

101.—(1) Every loan corporation in which and so long as there are any holders of terminating shares or stock shall keep a book, or books, to be known as the Terminating Shares Book, in which shall be entered the name, address and calling of every such person while such shareholder. the number and amount of shares from time to time taken by him, and his several payments thereon, the interest or profits earned by his shares, also the repayments or the advances, if any, made by the corporation on account of his shares. Terminating shares book.

(2) In any case of forfeiture of shares an entry shall be made thereof, with the date of the forfeiture. Entry of forfeiture.

(3) The provisions of subsections 2 to 5 of section 99 shall apply to the books prescribed by section 100 and this section. 2 Geo. V. c. 34, s. 101. Application of subsecs. 2 to 5 of s. 99.

AUDIT; STATEMENT TO SHAREHOLDERS.

102.—(1) The accounts of a corporation shall be examined once at least in every year and the correctness of the balance-sheet shall be ascertained by two or more auditors. Annual audit.

(2) The first auditors of a corporation may be appointed by the directors before the first meeting of the shareholders and shall hold office until the first general meeting. First auditors.

(3) Thereafter the auditors shall be appointed by resolution at a general meeting of the corporation and shall hold office until the next annual meeting unless previously removed by a resolution of the shareholders in general meeting. Appointment of auditors.

(4) The auditors may be shareholders in the corporation, but no person shall be eligible as an auditor who is interested otherwise than as a shareholder in any transaction of the Auditors may be shareholders.

corporation, and no director or other officer of the corporation shall be eligible during his continuance in office.

Registrar
may appoint.

(5) If an appointment of auditors is not made at an annual meeting the Registrar may, on the application of any shareholder of the corporation, appoint an auditor of the corporation for the current year, and fix the remuneration, if any, to be paid to him by the corporation for his services.

Directors
may fill
vacancies.

(6) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors, if any, may act, and any auditor may be eligible for reappointment.

Suspension
of auditors.

(7) The directors may, by a two-thirds vote, suspend any auditor for incapacity, misconduct or negligence until the next general meeting of the corporation, and in the event of suspension shall appoint an auditor *ad interim*.

Remunera-
tion of
auditors.

(8) The remuneration of the auditors shall be fixed by the corporation in general meeting, except that the remuneration of any auditors appointed before the first general meeting or to fill any casual vacancy may be fixed by the directors.

Rights and
duties of
auditors.

(9) Every auditor of a corporation shall have the right of access at all times to the books, accounts and vouchers of the corporation, and may require from the directors and officers of the corporation such information and explanation as may be necessary for the performance of his duties, and the auditors shall sign a certificate at the foot of the balance-sheet stating whether or not their requirements as auditors have been complied with and shall make a report to the shareholders or members on the accounts examined by them, and on every balance sheet laid before the corporation in general meeting during their tenure of office; and in every such report shall state whether, in their opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the corporation's affairs as shown by its books, and such report shall be read at its general meeting. 2 Geo. V. c. 34, s. 102.

Periodical
financial
statement to
shareholders.

103.—(1) The corporation shall once at least in every year cause to be prepared a general statement of its liabilities and assets, specifying in whose custody or possession the funds and effects of the corporation then are, together with a summary account of all sums received or expended by or on account of the corporation since the making of the next preceding periodical statement and bringing forward the cash balance from that statement.

Certified by
officer and
by auditors.

(2) Every such periodical statement shall be attested by the signature of the treasurer or some other principal officer of the corporation, and shall contain a certificate signed by the auditors stating that they have duly audited the books, accounts, securities and vouchers of the corporation and the result of the audit.

(3) Every shareholder shall be entitled to receive from the corporation, without charge, a copy of such signed and certified statement. 2 Geo. V. c. 34, s. 103.

OFFICERS AND SERVANTS; CUSTODY OF BOOKS AND EFFECTS OF CORPORATION.

104. Subject to section 102 the directors shall from time to time appoint such persons as they think proper to be officers, servants or employees of the corporation, grant such salaries and emoluments as they deem fit, and pay the necessary expenses attending the management of the corporation; and shall from time to time appoint such persons as may be necessary for the purposes of the corporation, for the time and for the purpose expressed in the by-laws, and may from time to time discharge such persons, and appoint others in the room of those who retire, die or are discharged. 2 Geo. V. c. 34, s. 104.

105. The secretary or treasurer or secretary-treasurer or other officer of the corporation may be styled "Manager," and when the officer is also a director he may be styled "Managing Director." 2 Geo. V. c. 34, s. 105.

106. Every officer or other person appointed to any office in anywise concerning the receipt, safe-keeping or proper application of money shall furnish security according to the by-laws of the corporation and to the satisfaction of the directors for the just and faithful execution of the duties of his office, and any person entrusted with the performance of any other service may be required by the directors to furnish similar security. 2 Geo. V. c. 34, s. 106.

107.—(1) The books used by any auditor, officer, collector or agent for verifying or recording money received for the corporation shall be the property of the corporation.

(2) Neither the foregoing persons, nor any solicitor, counsel or other person shall have in or upon these or any other of the books of account or record of the corporation any ownership or proprietary right or any right of lien.

(3) Any person who, in contravention of this section, withdraws, withholds or detains any of such books from the possession or control of the directors, or from the receiver or liquidator of the corporation, shall be guilty of an offence. 2 Geo. V. c. 34, s. 107.

108. Where a person who has been but has ceased to be a director, manager, auditor, officer, agent, collector, servant or employee of a corporation, or any other person unlawfully retains possession of any account, books, money, securities, papers, matters or things which are the property of the corporation, a Judge of the Supreme Court or of a County

or District Court, on application of the corporation or any depositor or shareholder therein or of the Registrar, and upon notice to the person affected, may order that such accounts, books, money, securities, papers, matters and things be forthwith delivered to such person as the Judge may direct and in default that the person so retaining possession shall be imprisoned for such period as the Judge may direct or until he complies with the direction of the order, and may authorize the Sheriff of any County or District in which the same may be found forthwith to seize and take such accounts, books, money, securities, papers, matters and things and deliver the same to the person to whom they have been directed to be delivered. 2 Geo. V. c. 34, s. 108.

MISAPPLICATION OF MONEYS.

Penalty for
misapplication
of funds.

109. In addition to making full restitution and to any liability under the criminal law any director, officer, servant or employee of a corporation who diverts or misapplies any money subscribed to, received by, or belonging to the corporation shall incur a penalty of not less than \$100 or more than \$2,000, recoverable by the corporation by action in the Supreme Court. 2 Geo. V. c. 34, s. 109.

ANNUAL STATEMENT TO DEPARTMENT: REGISTRAR'S REPORT.

Annual
statement
to the
Registrar.

110.—(1) The managing director, manager or secretary of every registered corporation shall prepare annually on the 1st day of January, or within two months thereafter, according to a printed form to be supplied on application to the Registrar, a statement of the financial condition and affairs of the corporation up to the 31st December next preceding.

Filing of
statement.

(2) The statement having been adopted by a resolution of the directors, and having been signed and sworn to by the president or vice-president and the managing director, manager or secretary with a certified copy of the resolution, and of the auditors' statement or certificate, shall be filed with the Registrar on or before the 1st day of March then next ensuing.

Extension.

(3) On sufficient cause shown and upon payment of the prescribed fee the Registrar by writing under his hand and seal may, either before or after the 1st day of March, extend the time for the delivery of the statement.

Penalty for
failure to
file statement
or supply
information.

(4) A corporation which does not file its statement as required by this section, or make prompt and explicit answer to any enquiries then or at any time put by the Registrar touching its contracts, finances, stock, shares, securities, obligations, by-laws or books or, if required, produce for examination its books, records, securities, accounts, and vouchers shall be liable to suspension, cancellation, or non-

renewal of registry, and shall incur a penalty of \$50 for each day of default, but not exceeding in the whole \$1,000.

(5) In the case of an extra-Provincial corporation the statement shall comprise a certified copy of the last audited financial statement published or prepared by the corporation for the information of its shareholders and members, and also a statement of the business of the corporation in Ontario for the year then last ended; and the last mentioned statement shall be signed and sworn to by the chairman of the board or other presiding officer and by the secretary, or by the manager or chief agent and by the accountant or secretary of the corporation.

What required in case of an extra provincial corporation.

(6) With the statement the corporation shall file a certified copy of any statement furnished to shareholders during the year then ended. 2 Geo V. c. 34, s. 110.

Copy of periodical statement or statements.

111. From the statements so filed the Registrar shall cause to be prepared, printed and distributed a report which may be known as the Loan and Trust Corporations Statements for the year ending 31st December, naming the year; and such report shall include a list of registered loan corporations brought up to the date of publication. 2 Geo. V. c. 34, s. 111.

Registrar's Annual Report.

112.—(1) No corporation shall under the penalty of becoming disentitled to registry or of having its registry suspended or cancelled make, print, publish, circulate, authorize or be a party or privy to the making, printing, publishing or circulating of any statement or representation that its solvency or financial standing is vouched for by the Registrar or that the publication of its statement in his report is a warranty or representation of the solvency of the corporation, or of the truth or accuracy of such statement in any particular.

Representations that standing of corporation is vouched for by registrar.

(2) Any director, auditor, officer, servant, employee or agent of a corporation who makes or uses or authorizes or is party or privy to the making or using of any such statement or representation shall be guilty of an offence. 2 Geo. V. c. 34, s. 112.

Penalty.

REGISTRATION OF CORPORATIONS.

113.—(1) There shall be a Registrar and an Assistant Registrar who shall be appointed by the Lieutenant-Governor in Council.

Appointment of registrar and assistants.

(2) The Assistant Registrar shall perform the duties of the Registrar in the case of the latter's absence or illness, or of a vacancy in the office of Registrar, and shall also perform such other duties as shall be assigned to him by the Lieutenant-Governor in Council, by the Minister or by the Registrar. 2 Geo. V. c. 34, s. 113.

Assistant Registrar, duties of.

Actions
against
Registrar.

(3) Without the leave of the Attorney-General, no action or proceeding shall be brought or taken against the Registrar or Assistant Registrar for anything done or omitted in the performance, or intended or supposed performance, of his duty under this Act. 2 Geo. V. c. 34, s. 125 (4).

Official seal.

114. The Registrar shall have a seal of office, which shall bear upon its face the words "Registrar of Loan Corporations." 2 Geo. V. c. 34, s. 114; 3-4 Geo. V. c. 18, s. 35 (1).

Registers.

115.—(1) The Registrar shall keep:—

Loan Com-
panies'
Register.

(a) A Register to be called "The Loan Companies' Register," wherein shall be recorded the names of such loan corporations as are from time to time entitled to registry, whose powers do not include the business of buying and selling land, or that of a trustee, executor, administrator, guardian, liquidator, receiver or assignee;

Loaning
Land Com-
panies'
Register.

(b) A Register to be called "The Loaning Land Companies' Register," wherein shall be entered the names of such loaning land corporations as are from time to time entitled to registry, whose powers include the business of buying and selling land, but not that of a trustee, executor, administrator, guardian, liquidator, receiver or assignee;

Trust Com-
panies'
register.

(c) A Register to be called "The Trust Companies' Register," wherein shall be entered the names of such trust companies as are from time to time entitled to registry, whose powers include the business of a trustee, executor, administrator, guardian, liquidator, receiver or assignee, but do not include that of buying and selling land as beneficial owner, and, subject to subsection 3, do not exceed the powers which may be given to trust companies under this Act.

No corpora-
tion to be
registered on
more than
one register.

(2) A corporation shall not be registered on more than one of such registers, nor transact or undertake business in Ontario other than the business for which it is registered.

Special Acts
as to trust
companies not
affected.

(3) Nothing in this section shall diminish the powers conferred on any trust company by or under the authority of any other Act of Ontario, nor shall the possession of powers so conferred debar it from registry on the Trust Companies Register. 2 Geo. V. c. 34, s. 115.

Duties of
Registrar.

116.—(1) The duty of determining, distinguishing and registering those corporations which under this Act are required to be registered and are entitled to registry, and of granting registry accordingly, shall devolve upon the Registrar subject to appeal as hereinafter provided.

(2) For the purposes of his duties the Registrar may require to be made, or may take and receive affidavits or depositions, and may examine witnesses upon oath. Power to require evidence.

(3) The evidence and proceedings in any matter before the Registrar may be reported by a stenographer who has taken an oath before the Registrar faithfully to report the same. 2 Geo V. c. 34, s. 116. Employment of stenographer.

117. After the issue of Letters Patent to any corporation required or authorized to register under this Act, the Provincial Secretary shall transfer all papers in his Department connected with such company to the office of the Registrar. 2 Geo. V. c. 34, s. 117. Transfer of papers.

118.—(1) Applications for initial registry shall be made according to a form to be supplied by the Registrar, and the applicant shall deliver to the Registrar the application duly completed, together with such evidence as the form requires. Applications for initial registry.

(2) The applicant shall, if required, furnish such further information, material and evidence, and give such public notice of the application as the Registrar may direct. Material to be furnished.

(3) With the application the applicant shall file a statement in such form as may be required by the Registrar, of the financial condition and affairs of the corporation on the 31st day of December next preceeding, or up to the usual balancing day of the corporation, if such balancing day is not more than twelve months before the filing of the statement, and the statement shall be signed and verified as prescribed by section 110. 2 Geo. V. c. 34, s. 118. Financial statement to accompany application. What statement shall show.

119.—(1) Where a corporation applying for registry has its head office elsewhere than in Ontario the application shall be accompanied by a power of attorney from the corporation to an agent or agents resident in Ontario. Registration of extra provincial corporations.

(2) The power of attorney shall be under the seal of the corporation, and shall be signed by the president and secretary or other proper officers thereof in the presence of a witness who shall make oath as to the due execution thereof. Execution of power of attorney.

(3) The official positions in the corporation held by the officers signing such power of attorney shall be verified by the oath of some person cognizant of the facts. Authentication.

(4) The power of attorney shall declare at what place in Ontario the chief agency of the corporation is, or is to be established, and shall expressly authorize such agent or agents to receive service of process in all actions and proceedings against the corporation in Ontario for any liability incurred by the corporation therein, and also to receive from the Registrar all notices which the law requires to be given, or which it is thought advisable to give, and shall Contents of power of attorney.

declare that service of process for or in respect of such liability on either of such agents and receipt of such notices at such chief agency or personally by either of such agents shall be legal and binding on the corporation.

Filing of
power of
attorney.

(5) The power of attorney with the affidavit shall be filed with the Registrar.

Authority
conferred
by
power of
attorney.

(6) The power of attorney may confer upon the agent or agents any further or other powers which the corporation may deem advisable.

Effect of
copy as
evidence.

(7) The production of a copy of such power of attorney certified by the Registrar shall be sufficient evidence for all purposes of the power and authority of the person or persons therein named to act on behalf of the corporation in the manner and for the purposes set forth in such certified copy.

Changes in
chief agent
or agency.

(8) Whenever the corporation changes its agent or chief agency in Ontario it shall file with the Registrar a power of attorney, as hereinbefore provided, stating the change or changes and containing a similar declaration as to service of process and notices as hereinbefore provided.

Service of
process
thereafter.

(9) After the power of attorney is filed any process in any action or proceeding against the corporation for a liability incurred in Ontario may be validly served on the corporation at its chief agency; but nothing herein shall render invalid service in any other mode in which a corporation may be lawfully served.

Section to
apply not-
withstanding
special Act.

(10) This section shall apply notwithstanding any special or other legislation of Ontario affecting any registered corporation. 2 Geo. V. c. 34, s. 119.

Recording
registry;
entries on
register.

120.—(1) The Registrar shall cause to be entered on the proper register the name of every corporation which from time to time he or, in case of appeal, the Lieutenant-Governor in Council finds to be entitled to registry, together with the date of the commencement of the registry and the term for which the registry is to endure.

Term of
registry.

(2) The term shall begin from the date of such commencement and shall end not later than the 30th day of June then next ensuing.

Particulars
to be
entered.

(3) The Registrar shall also cause to be entered on the register the place where the head office and the chief agency, if any, are situate, and if there is a chief agency the name and address of the chief agent, and of the agent or agents appointed under the next preceding section.

Entering
suspension,
etc., of
registry.

(4) If the registry is suspended, revived, revoked, or cancelled, the date of and authority for such suspension, revivor, revocation or cancellation shall also be entered.

(5) The Registrar shall issue under his hand and seal of office to every registered corporation a certificate of registry, setting forth that the corporation is entitled to registry as a (*describing the corporation*) under this Act, and that the corporation is accordingly registered for the term stated in the certificate.

Issue of certificate of registry.

(6) Every certificate of registry shall specify the first day and the last day of the term for which the corporation is registered; and the corporation so registered shall be deemed to be registered from the commencement of the first day to the end of the last day so specified.

Commencement and end of term.

(7) A certificate of registry which does not specify an earlier date of expiry shall, unless sooner suspended or cancelled, remain valid until the then next ensuing thirtieth day of June inclusive, when, if the corporation has complied with the law and continues solvent, it shall be entitled to a certificate of renewed registry, and so on every succeeding thirtieth day of June thereafter.

Duration of registry.

(8) Notwithstanding failure to comply with the provisions of this Act within the prescribed time the Registrar may, upon payment of the prescribed fee, grant an interim certificate of registry or extend the currency of a subsisting certificate. 2 Geo. V. c. 34, s. 120.

Interim certificate.

CORPORATE NAME: CHANGE OF NAME OR OF HEAD OFFICE.

121.—(1) No corporation shall be registered under a name identical with that under which any other existing corporation is registered, or under any other name likely, in the opinion of the Registrar, to deceive the public as to its identity.

Restrictions upon use of names.

(2) No registered corporation shall be registered under a new or different name except upon proof that such new or different name is authorized by law.

New names.

(3) Where a Provincial corporation is desirous of adopting a name different from that by which it was incorporated, or where, in the opinion of the Registrar, the name by which the corporation was incorporated may be easily confounded with that of another existing corporation, the Lieutenant-Governor in Council may change the name of the corporation to some other name to be stated in the Order in Council.

Change of corporate name.

(4) No such change of name shall affect the rights or obligations of the corporation.

Not to affect rights or obligations.

(5) The location of the head office of a corporation may be changed in like manner.

Change of head office.

(6) Such public notice shall be given of any change of name or head office, and of any application for such change, in the *Ontario Gazette* and otherwise as the Registrar may direct. 2 Geo. V. c. 34, s. 121.

Public notice.

CORPORATIONS ADMISSIBLE TO REGISTRY: REFUSAL, SUSPENSION, REVIVOR, CANCELLATION OF REGISTRY: APPEAL.

What
admissible
to registry.

122.—(1) Corporations mentioned in section 115, which are solvent and fall within one of the following classes, may, upon due application, be admissible to registry:

Corporations
hereafter
constituted.

(a) Corporations hereafter duly constituted under the law of Ontario;

Certain
active cor-
porations.

(b) Corporations which being duly incorporated or constituted under the law of Ontario, or of any other Province of Canada, or of the Dominion of Canada, or of the United Kingdom, were in actual, active and *bona fide* operation in Ontario on the tenth day of February, 1897, but a corporation not being incorporated or constituted under the law of Ontario shall be admissible to registry only on due application and with the approval of the Minister and on such terms and conditions as he may prescribe;

Other non-
Provincial
or British
corporations.

(c) Corporations duly constituted as joint stock corporations under the law of any other Province of Canada, or of the Dominion of Canada, or of the United Kingdom, which issue only permanent shares and have a subscribed permanent stock of not less than \$500,000, whereof \$100,000 is paid in and unimpaired.

Corporations
of other
countries.

(2) A corporation incorporated under the laws of any other country may, upon due application, with the approval of the Minister, be admitted to registry on such terms and conditions as he may deem expedient.

No others.

(3) Subject to section 143 no other corporation shall be registered. 2 Geo. V. c. 34, s. 122.

Suspension or
cancellation
of registry.

123.—(1) Upon proof that registry or a certificate of registry has been obtained by fraud or mistake, or that a corporation exists for an illegal purpose, or is insolvent, or has failed to pay its obligations, or has wilfully, and after notice from the Registrar, contravened any of the provisions of this Act, or of the Act or instrument incorporating the company, or of any law in force in Ontario, or has ceased to exist, the registry of the corporation may be suspended or cancelled by the Registrar.

Notice to
be given to
the corpora-
tion.

(2) On the suspension or cancellation of the registry of any existing corporation the Registrar shall cause notice in writing thereof to be delivered to the corporation.

Publication
in *Gazette*.

(3) Where the corporation has ceased to exist the notice shall be published in the *Ontario Gazette*.

(4) From and after such suspension or cancellation, or after termination of registry without renewal, the corporation shall, unless and until again registered, cease to trans-^{Corporation to cease business except for winding up purposes.}act or undertake business in Ontario, except so far as necessary for the winding up of its business; but any liability incurred by such corporation may be enforced against it as if such suspension, cancellation or termination had not taken place. 2 Geo. V. c. 34, s. 123.

124.—(1) Where in any disputed case the Registrar decides that a corporation is or is not legally entitled to registry, or to renewal of registry, or where he suspends, revives, or cancels the registry of a corporation, his decision, except as otherwise herein provided, shall be given in writing and he shall cause a copy thereof certified under his seal of office to be delivered to the corporation.^{Decision of Registrar to be in writing and to be delivered to corporation.}

(2) A certified copy of any such decision or of any certificate of registry may be had on application to the Registrar upon payment of the prescribed fee.^{Certificate of decision or of registry.}

(3) Affidavits and depositions received or taken by the Registrar shall be filed in his office. 2 Geo. V. c. 34, s. 124.^{Filing affidavits and depositions.}

125.—(1) An appeal shall lie to the Lieutenant-Governor in Council from any decision of the Registrar affecting the right of any corporation to register, or affecting the revivor of registration, or suspending or cancelling the registration of any corporation, and from any decision of the Registrar under section 120 or section 121, and by leave of the Lieutenant-Governor in Council from his decision in any other case.^{Appeal to the Lieutenant-Governor in Council.}

(2) Unless otherwise ordered by the Lieutenant-Governor in Council no appeal shall be allowed unless within thirty days after the decision appealed against has been made notice of appeal and of the reasons therefor is delivered to the Registrar.^{Notice of appeal and grounds.}

(3) The decision of the Lieutenant-Governor in Council shall be final and conclusive. 2 Geo. V. c. 34, s. 125 (1-3).^{Decision.}

126. The Registrar may at the request of the corporation, evidenced as he may direct, cancel its registry. 2 Geo. V. c. 34, s. 126.^{Cancellation of registry by request of corporation.}

NOTICE TO CORPORATION FOR THE PURPOSES OF THE ACT.

127. Delivery of any written notice or document to a corporation for any purpose of this Act, where the mode is not otherwise expressly provided, may be by letter delivered at the head or chief office of the corporation in Ontario or its chief agency therein, or sent by registered post addressed to the corporation, its manager or agent at such head or chief office or agency, or by delivering it personally to an authorized agent of the corporation. 2 Geo. V. c. 34, s. 127.^{Service of notices.}

UNREGISTERED CORPORATIONS AND ILLEGAL CONTRACTS.

No unregistered corporation to undertake business.

128.—(1) No incorporated body or person acting in its behalf, other than a registered corporation, and a person duly authorized by it to act in its behalf shall undertake or transact the business of a loan corporation, or of a loaning land corporation, or of a trust company in Ontario.

Certain matters to be deemed undertaking business.

(2) Any setting up or exhibiting of a sign or inscription containing the name of the corporation, or any distribution or publication of any proposal, circular, card, advertisement, printed form or like document in the name of the corporation, or any written or oral solicitation on the corporation's behalf, or any collecting or taking of money on account of shares or of loans or advances shall, both as to the corporation and as to the person acting or purporting to act on its behalf, be deemed undertaking the business of the corporation within the meaning of this section.

No person to act as agent for unregistered corporation.

(3) Any promoter, organizer, manager, director, officer, collector, agent, employee, or person who undertakes or transacts any business of a corporation which is not registered under this Act shall be guilty of an offence. 2 Geo. V. c. 34, s. 128.

Penalty for using certain words in name of company while unregistered. Rev. Stat. c. 163.

129. Any person, partnership, organization, society, association, company or corporation, not being a corporation registered under this Act or under *The Ontario Insurance Act*, assuming or using in Ontario a name which includes any of the words "Loan," "Mortgage," "Trust," "Trusts," "Investment," or "Guarantee," in combination or connection with any of the words "Corporation," "Company," "Association" or "Society," or in combination or connection with any similar collective term, or assuming or using in Ontario any similar name, or any name or combination of names which is likely to deceive or mislead the public shall be guilty of an offence; and any person acting on behalf of such person, partnership, organization, society, association, company or corporation shall also be guilty of an offence; but where any of such combinations of words formed part of the corporate name of any corporation theretofore duly incorporated by or under the authority of an Act of Ontario or of the Parliament of Canada the combination may continue to be used in Ontario as part of the corporate name. 2 Geo. V. c. 34, s. 129.

Interpretation
"Contract."

130.—(1) In this section:

"Contract" shall mean and include any contract, agreement, undertaking or promise

(a) To pay to or for the contract-holder any money or money's worth;

- (b) To sell, supply or procure any building or site or land or to bring about the purchase and sale or supply thereof; or
- (c) To construct or procure the construction of any house or building

made upon any consideration which includes an entrance or membership fee, or expense contribution, initial, renewal, periodical or recurrent, or which includes any periodical or recurrent contribution to a fund, or account, or source for, or intended or alleged to be for, the carrying out of such contract;

And "contract" shall further include any contract, ^{Interpretation extended.} agreement, undertaking, or promise, the benefit of which to the contract-holder paying any such consideration is to be wholly or partly postponed or deferred until other contract-holders have been provided for, or is to depend upon the number or the persistence of the other contract-holders, or upon the accession of new contract-holders, or upon the order or sequence of the contract.

(2) Any person, partnership, organization, society, association, company or corporation, not being a corporation registered under this Act or under *The Ontario Insurance Act*, undertaking or effecting, or offering to undertake or effect, any such contract shall be guilty of an offence; and any person acting on behalf of such person, partnership, organization, society, association, company or corporation, shall also be guilty of an offence, and the convicting Magistrate or Justices, in addition to imposing the prescribed penalty, may at the time of conviction or thereafter make such ^{Prohibition of certain contracts. Rev. Stat. c. 188.} order for the restitution of the money which was unlawfully taken as to him or them shall seem just; and in default of compliance with such order the offender shall be liable to imprisonment for a term not exceeding twelve months. ^{Order for restitution.} 2 Geo. ^{Penalty for non-compliance.} V. c. 34, s. 130.

131. Where in any case arising under any of the next preceding three sections it is found by the Magistrate or Justices that the person, partnership, organization, society, company or corporation charged or his or its agent is exhibiting or using any sign, inscription or name, or distributing, using or publishing any document, including any proposal, circular, card, advertisement, notice, application, contract or printed form which, in the opinion of the Magistrate or Justices, induces, or tends to induce, a violation of any of such sections, or is likely to deceive or mislead the public either as to the party or the status of the party undertaking the contract, or as to the nature, terms or effect of the contract, the Magistrate or Justices may summarily order the discontinuance of ^{Use of sign, name or document inducing illegal contract.}

Order for discontinuance.

such sign, inscription, name or document; and non-compliance with such order shall be an offence. 2 Geo. V. c. 34, s. 131.

OFFENCES AND PROSECUTIONS.

Offences for which no special penalty provided.

132.—(1) For every contravention of this Act, which is declared to be an offence and for which no other penalty is provided, the offender shall, for the first offence, incur a penalty of not less than \$20 and not more than \$200, and for any subsequent offence of the same kind shall be liable to imprisonment for any term not less than three months and not more than twelve months, or in the case of an organization, society, association, company or corporation to a penalty not exceeding \$1,000.

Prosecutions.

Rev. Stat. c. 90.

(2) The prosecution shall be before a Police Magistrate or two Justices of the Peace, and, except as herein otherwise provided, the provisions of *The Ontario Summary Convictions Act* shall apply.

Limitations of prosecutions.

(3) The information or complaint shall be laid or made in writing within one year after the commission of the offence. 2 Geo. V. c. 34, s. 132.

Security upon appeal from conviction.

133. Every person convicted under this Act who gives notice of appeal against the conviction shall before proceeding with the appeal give security to the satisfaction of the Magistrate or Justices to appear personally at the Court and to prosecute such appeal, and to abide by the judgment of the Court thereupon, and to pay such costs as may be awarded, and if a pecuniary penalty is imposed to pay the same if the conviction is affirmed. 2 Geo. V. c. 33, s. 133.

Informant: application of fine.

134.—(1) One-half of any penalty imposed under the authority of this Act shall belong to His Majesty, for the use of Ontario, and the other half shall belong to the prosecutor.

Burden of proof of registry.

(2) In every action for a penalty or prosecution for an offence against this Act, the burden of proving registry shall be upon the person, partnership, organization, society, association, company or corporation charged. 2 Geo. V. c. 34, s. 134.

VERIFICATION OF ANNUAL STATEMENTS MADE TO REGISTRAR; SPECIAL AUDIT.

Registrar to have access to corporation books, etc.

135.—(1) The Registrar or any person authorized under his hand and seal shall, with the approval of the Minister, have at any time within reasonable business hours of every day except holidays access to the books, vouchers, securities and documents of a corporation, and any officer or person in charge, possession, custody or control of such books, vouchers, securities or documents refusing or neglecting to afford such access shall be guilty of an offence, and the corporation, if registered, shall be liable to have its registry suspended.

(2) The corporation, on continued refusal or neglect to afford such access, shall be liable to have its registry cancelled or not renewed after termination of the current certificate. Cancellation of registry for refusing access.

(3) Where a corporation is three months in default in the delivery of the financial statement required by section 110 or upon proof that its accounts have been materially and wilfully falsified, or that for eighteen consecutive months there has been no *bona fide* audit of the books and accounts; or where there is filed with the Registrar a requisition for audit bearing the signatures, addresses and occupations of at least twenty-five shareholders of the corporation, holding shares upon which not less than \$10,000 has been paid in, and alleging to the satisfaction of the Registrar specific fraudulent or illegal acts, or repudiation of contracts, or insolvency, and accompanied by a deposit of \$300 or such less sum as the Registrar may fix as security to cover the costs of the audit, the Registrar may nominate a competent accountant who shall under his direction make a special audit of the corporation's books, accounts and securities, and make to him a written report thereupon verified upon oath. Special audit in case of fraud, illegal acts or default of audit or financial statement.

(4) A special auditor so appointed shall be sufficiently accredited if he delivers to the secretary or to any managing officer of the corporation a written statement under the hand and seal of the Registrar to the effect that the Registrar has nominated him to audit the books, accounts and securities of the corporation. Credentials of auditor.

(5) The expense of such special audit shall be borne by the corporation, and the auditor's account therefor when approved in writing by the Registrar shall be conclusive and shall be payable forthwith. Expenses of special audit.

(6) Where the facts alleged in the requisition appear to the Registrar to have been partly or wholly disproved by the audit, and he deems it just, he may pay the costs of the audit partly or wholly out of the deposit. Payment of costs out of deposit.

(7) The deposit or the balance, if any, remaining after payment of such costs shall be returned to the requisitioning shareholders upon the order of the Registrar. Return of balance of deposit.

(8) Where a corporation, by its officer, employee, servant or agent having in his custody, possession or power the funds, books, vouchers, securities, or documents of the corporation, refuses to have the same duly audited, as provided by section 102, or by this section or by section 136, or obstructs an auditor or examiner in the performance of his duties, the Registrar, upon proof of the fact, may suspend or cancel the registry of the corporation, or may terminate the registry after the expiry of the current certificate of registry. Where corporation resists or obstructs audit.

Report of
special
auditor.

(9) If the report of the special auditor appears to the Registrar to disclose fraudulent or illegal acts on the part of the corporation, or a repudiation of its contracts, or its insolvency, he shall notify the corporation accordingly and furnish it with a copy of the report, allowing two weeks for a statement in reply to be filed with him.

Registrar's
decision.

(10) Upon consideration of the report and of the corporation's statement in reply, and of such further evidence, documentary or oral, as he may require, the Registrar shall render his decision in writing, and may thereby continue or terminate, or suspend or cancel the registry of the corporation. 2 Geo. V. c. 34, s. 135.

Appointment
of examiner
by Attorney-
General.

136.—(1) The Attorney-General, of his own motion or upon an application being made to him in writing, may appoint some competent person to make a special examination and audit of the corporation's books, accounts and securities, and to enquire into the conduct of the business of the corporation generally.

Evidence
upon which
inquiry to be
ordered.

(2) The application shall be supported by such evidence as the Attorney-General may require for the purpose of showing that there is good reason for requiring such investigation to be made, and that it is not prompted by malicious motives.

Security
for costs.

(3) The Attorney-General may require security for the payment of the costs of the enquiry to be given before appointing the examiner.

Powers of
examiner as
to summon-
ing witnesses,
etc.

(4) The examiner may summon witnesses and take evidence under oath, and generally, for the purposes of such examination, audit and enquiry, shall have the like powers as may be conferred on a commissioner appointed under *The*

Rev. Stat. c. 18.

Public Inquiries Act.

Report to
Attorney-
General.

(5) Upon the conclusion of such examination, audit and enquiry the examiner shall make his report in writing to the Attorney-General. 2 Geo. V. c. 34, s. 136.

Refusal to
make entries
or exhibit
same, etc.

137. Every director, manager, auditor, officer, agent, collector, servant, or employee of the corporation who refuses or neglects to make any proper entry in any book of record, entry or account of the corporation, or to exhibit the same, or to allow the same to be inspected or audited, either for the general purposes of the corporation or for the purposes of this Act, and extracts to be taken therefrom shall be guilty of an offence. 2 Geo. V. c. 34, s. 137.

Evidence:
notice in
Gazette.

138.—(1) A notice published in the *Ontario Gazette* over the name of the Registrar or Assistant Registrar shall, without further proof, be *prima facie* evidence of the facts set forth in such published notice.

(2) All copies of returns, reports or other official publications of the Registrar purporting to be printed by the King's Printer, or to be printed by order of the Assembly, shall, without further proof, be admitted as evidence of such publication and printing and as true copies of the originals. Official publications.

(3) A certificate under the hand of the Registrar or Assistant Registrar and the Registrar's seal of office, that on a stated day the corporation mentioned therein was or was not registered, or that the registry of any corporation was originally granted, or was renewed, suspended, revived or cancelled, on a stated day, shall be *prima facie* evidence of the facts stated in the certificate. Certificate as to registry.

(4) Copies of, or extracts from, any book, record, instrument or document in the office of the Registrar or of or from any official instrument or document issued under this Act shall, if certified by him or by the Assistant Registrar to be true copies or extracts and sealed with the Registrar's seal of office, be held as authentic and shall be *prima facie* evidence of the same legal effect as the original. 2 Geo. V. c. 34, s. 138. Copies of or extracts from official documents.

139.—(1) In any action or proceeding against a corporation the books mentioned in section 100 shall be *prima facie* evidence of the facts purported to be thereby stated. Books as evidence.

(2) The books of a corporation shall be *prima facie* evidence of the truth of all matters purporting to be therein recorded as between the corporation and its shareholders, and as between its shareholders. 2 Geo. V. c. 34, s. 139. Idem.

FEES.

140.—(1) Until otherwise prescribed by the Lieutenant-Governor in Council the fees for Letters Patent of incorporation under this Act shall be as mentioned in Schedule A. Fees for incorporation.

(2) Until otherwise prescribed by the Lieutenant-Governor in Council the fees set out in Schedule B. shall be payable in respect of the matters therein mentioned. Other fees.

(3) The fees shall be payable to the Registrar.

Payment to Registrar.

(4) Where a corporation proves to the satisfaction of the Registrar that it is discontinuing business in Ontario, and has given such public notice of intended discontinuance as shall be required, the fee for registry or renewal of registry, as the case may be, may, on the certificate of the Registrar, be commuted to one-fourth of the prescribed fee; but registry at such commuted fee shall not be granted for more than four years in all, unless for cause shown to the satisfaction of the Registrar, in which case registry may be granted year by year for an additional number of years. See 2 Geo. V. c. 34, s. 140. Commutation on proposed discontinuance of business.

Time of
payment.

141. In the case of an application or other document or instrument to be filed, examined or deposited, the fee shall be paid before the application or other document or instrument is dealt with; in the case of registry or certificates of registry the fee shall be paid before the corporation is registered. 2 Geo. V. c. 34, s. 141.

Application
of certain
sections of
Rev. Stat.
c. 178.

142. Except where the provisions of this Act are inconsistent with them, sections 27, 49, 51, 54, 55, 56, 59, 60, 61, 73, 75, subsection 1 of section 95 and section 98 and Part XIII. of *The Ontario Companies Act* shall apply, substituting for the words "Provincial Secretary," in subsection 1 of section 95 and Part XIII., the word "Registrar." 2 Geo. V. c. 34, s. 142; 3-4 Geo. V. c. 18, s. 35 (2).

SAVING AS TO TERMINATING SHARES ISSUED BEFORE 16TH APRIL, 1912.

Saving as
to law
applicable
to terminat-
ing shares.

143. Notwithstanding the repeal of certain Acts and parts of Acts by section 143 of *The Loan and Trust Corporations' Act*, passed in the 2nd year of His Majesty's reign chaptered 34, the law of Ontario which, on the sixteenth day of April, 1912, was in force and applied to corporations having terminating or withdrawable stock or shares, shall continue in force and shall apply to such corporations so long as such stock or shares subsist.

SCHEDULE OF FEES.

Approved by Order in Council, 25th May, 1913.

SCHEDULE "A."

Fee for Letters Patent of Incorporation or for Order in Council increasing Capital Stock, under the Loan and Trust Corporations Act:

(a) \$300,000 but less than \$500,000.....	\$200 00
(b) \$500,000 but less than \$1,000,000.....	250 00
(c) \$1,000,000 and \$25 for each additional \$100,000.....	350 00
(d) Supplementary Letters Patent.....	50 00

SCHEDULE "B."

1. Application for initial registry (s. 118).....	\$ 5 00
2. Extension of time for making application or for delivering any document required by this Act.....	2 00
3. Filing power of Attorney in case of corporations mentioned in section 119.....	5 00
4. Filing new power or change of Attorney (s. 119).....	5 00
5. Initial registry Loan or Loaning Land Corporations.....	100 00
6. Initial Registry Trust Companies.....	150 00

7. Certificate of renewed registry (s. 120):

(a) Where the assets of the Corporation amount to not more than \$250,000.....	\$ 35 00
(b) Where the assets of the corporation exceed \$250,000 but do not exceed \$500,000.....	50 00
(c) Where the assets of the Corporation exceed \$500,000 but do not exceed \$1,000,000.....	75 00
(d) Where the assets of the corporation exceed \$1,000,000 but do not exceed \$1,500,000.....	100 00
(e) Where the assets of the corporation exceed \$1,500,000 but do not exceed \$2,000,000.....	125 00
(f) Where the assets of the corporation exceed \$2,000,000 but do not exceed \$2,500,000.....	150 00
(g) Where the assets of the Corporation exceed \$2,500,000 but do not exceed \$3,000,000	175 00
(h) Where the assets of the corporation exceed \$3,000,000 but do not exceed \$5,000,000.....	200 00
(i) Where the assets of the corporation exceed \$5,000,000 but do not exceed \$10,000,000.....	250 00
(j) Where the assets of the corporation exceed \$10,000,000	300 00

For purposes of this article, capital stock uncalled shall not be deemed an asset.

8. Interim certificate of registry or extension of certificate (s. 120)	5 00
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9. Revivor of registry after suspension (s. 120):

For a corporation within article 7 (a).....	10 00
For a corporation within article 7 (b).....	15 00
For a corporation within article 7 (c).....	20 00
For a corporation within article 7 (d).....	25 00
For a corporation within article 7 (e).....	30 00

10. Change of corporate name (s. 121).....	25 00
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11. Change of head Office (s. 121).....	25 00
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12 Filing Annual Statement (s. 110).....	5 00
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13. Filing new By-laws or amendments thereto after initial registry (s. 79).....	2 00
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14. Application for increase, decrease, conversion or alteration of capital stock or shares or declaration or alteration of powers	10 00
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15. Certificate of decrease, conversion or alteration of capital stock or shares or declaration or alteration of powers	150 00
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16. Copy of decision of registrar, per folio of 100 words.....	10
Also for certificate of Registrar.....	1 00

17. Certified copy of entry on Register or of certificate...	1 00
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18. Copies of or extracts from documents filed with Registrar per folio of 100 words.....	10
Also for certificate of Registrar.....	1 00

19. Examining and passing upon applications or documents under section 50 to 59.....	25 00
Order in Council and certificate.....	200 00

20. Examining and passing upon applications or documents under 1 Geo. V. c. 26, s. 28.....	25 00
Order in Council	100 00

CHAPTER 185.

An Act respecting Railways.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

SHORT TITLE.

Short title. 1. This Act may be cited as *The Ontario Railway Act*.
3-4 Geo. V. c. 36, s. 1.

INTERPRETATION.

Interpreta- 2. In this Act, and in any special Act, in so far as this
tion of
words. Act applies thereto,—

"Board." (a) "Board" shall mean The Ontario Railway and
Municipal Board;

"By-law." (b) "By-law," when referring to an act of the com-
pany, shall include a resolution;

"Company." (c) "Company" shall mean a railway, street railway
or incline railway company, and shall include
every such company and any person or municipal
corporation having authority to construct or oper-
ate a railway or street railway or incline railway;

"Costs." (d) "Costs" shall include fees, counsel fees, and ex-
penses;

"County." (e) "County" shall include district;

"Express
toll." (f) "Express toll" shall mean any toll, rate or
charge to be charged by the company, or any per-
son or corporation other than the company, to
any persons, for hire or otherwise, for or in con-
nection with the collecting, receiving, caring for
or handling of any goods for the purpose of send-
ing, carrying or transporting them by express, or
for or in connection with the sending, carrying,
transporting or delivery by express of any goods,
or for any service incidental thereto, or for or in
connection with any or either of these objects
where the whole or any portion of the carriage
or transportation of such goods is by rail upon
the railway of the company;

- (g) "Goods" shall include personal property of every "Goods." description that may be conveyed upon the railway, or upon steam or other vessels connected with the railway;
- (h) "Highway" shall include a public road, street, "Highway." lane, or other public way or communication;
- (i) "Inspecting engineer" shall mean an engineer "Inspecting engineer." who is directed by the Board to examine a railway or works, and shall include two or more engineers when two or more are so directed;
- (j) "Judge" shall mean a Judge of the High Court "Judge." Division, or of a County or District Court, as the case may be;
- (k) "Land" shall mean the land, the acquiring, tak- "Land." ing, or using of which is authorized by this or by the special Act, and shall include real estate and an easement over or privilege in respect of, and any interest in land;
- (l) "Lease" shall include an agreement for a lease; "Lease."
- (m) "Owner," where, under this Act or the special "Owner." Act, any notice is required to be given to the owner of land, or where any act is authorized or required to be done with the consent of the owner, shall mean the person who, under this Act or the special Act, or any Act incorporated therewith, is enabled to sell and convey the land to the company, and shall include a mortgagee of the land;
- (n) "Plan" shall mean a ground plan of the land "Plan." and property taken or intended to be taken;
- (o) "Railway" shall mean any railway which the "Railway." company has authority to construct or operate, and shall include all branches, sidings, stations, depots, wharfs, rolling stock, equipment, stores, property, real or personal, and works connected therewith, and also any railway bridge, tunnel, or other structure which the company is authorized to construct;
- (p) "Registrar of deeds" or "Registrar" shall in- "Registrar." clude the master of titles, or local master of titles, or other officer with whom the title to the land is registered;
- (q) "Registry office" or other words descriptive of "Registry Office." the office of the registrar of deeds, shall include the land titles office or other office in which the title to the land is registered;

"Rolling
stock."

- (r) "Rolling stock" shall mean and include any locomotive, engine, motor car, tender, snow plough, flanger, and every description of car or of railway equipment designed for movement on its wheels over or upon the rails or tracks of the company;

"Secretary."

- (s) "Secretary" shall mean the secretary of the Board;

"Special
Act."

- (t) "Special Act" shall mean any Act authorizing the construction of or otherwise specially relating to a railway or street railway, whether operated by steam, electricity or other motive power, and with which this Act is incorporated;

"Street Rail-
way."

- (u) "Street railway" shall mean a railway constructed or operated along and upon a highway under an agreement with or by-law of a city or town, although it may at some point or points deviate from the highway to a right of way owned by the company, under the powers conferred by section 243, and shall include all portions of the railway within the city or town and for a distance of not more than one and one-half miles beyond the limits thereof, although such one and a half miles may be constructed under a by-law of or agreement with a municipal corporation other than that of such city or town, and shall also include any part of an electric railway which lies within the limits of a city or town and is constructed or operated along and upon a highway;

"Toll" and
"rate."

- (v) "Toll" or "Rate" shall mean and include any toll, rate, charge or allowance charged or made either by the company, or upon or in respect of a railway owned or operated by the company, or by any person on behalf or under authority or consent of the company, in connection with the carriage and transportation of passengers, or the carriage, shipment, transportation, care, handling or delivery of goods, or for any service incidental to the business of a carrier; and shall include also any toll, rate, charge or allowance so charged or made in connection with rolling stock, or the use thereof, or any instrumentality or facility of carriage, shipment or transportation, irrespective of ownership or of any contract, express or implied, with respect to the use thereof; and shall include also any toll, rate, charge or allowance so charged or made for furnishing passengers with beds or berths upon sleeping-cars, or for the collection, receipt, loading, unloading, stopping over, elevation, ventilation, refrigerating, icing,

heating, switching, ferriage, cartage, storage, care, handling or delivery of or in respect of goods transported, or in transit, or to be transported; and shall include also any toll, rate, charge or allowance so charged or made for the warehousing of goods, wharfage or demurrage or the like, or so charged or made in connection with any one or more of the above-mentioned objects separately or conjointly;

- (w) "Traffic" shall mean the traffic of passengers, "Traffic." goods and rolling stock;
- (x) "Train" shall include any engine, motor car or "Train." other rolling stock;
- (y) "Undertaking" shall mean the railway and "Under- works of every description which the company taking." has authority to construct or operate;
- (z) "Working expenditure" shall mean and include "Working expendi- ture."
 - (i) all expenses of maintenance of the railway;
 - (ii) all such tolls, rents or annual sums as are paid in respect of the hire of rolling stock, let to the company, or in respect of property leased to or held by the company, apart from the rent of any leased line;
 - (iii) all rent charges or interest on the purchase money of land belonging to the company purchased but not paid for or not fully paid for;
 - (iv) all expenses of or incidental to working the railway, and the traffic thereon, including all necessary repairs and supplies to rolling stock while on the lines of another company;
 - (v) all rates, taxes and insurance and compensation for accidents or losses;
 - (vi) all sums payable, under any Act of this Legislature, to workmen as compensation for injuries sustained or industrial diseases contracted in the course of their employment;
 - (vii) all salaries and wages of persons employed in and about the working of the railway and traffic;
 - (viii) all office and management expenses, including directors' fees, and agency, legal, and other like expenses;

(ix) all costs and expenses of and incidental to the compliance by the company with any order of the Board; and

(x) generally, all such charges, if any, not hereinbefore otherwise specified, as in all cases of English railway companies are usually carried to the debit of revenue as distinguished from capital account. 3-4 Geo. V. c. 36, s. 2.

APPLICATION OF ACT.

Application
of Act.

3. This Act shall, unless otherwise expressed, apply to all railways, other than Government railways, and when so expressed, and not otherwise, to street railways and incline railways howsoever incorporated, and whether operated by steam, electricity or other motive power, and whether constructed on highways or on lands owned by the company or partly on highways and partly on such lands, and shall be deemed to be incorporated and shall be construed, as one Act, with the special Act, subject as herein provided. 3-4 Geo. V. c. 36, s. 3.

Application of
tolls and
tariff pro-
visions to
traffic by
water.

4.—(1) The provisions of this Act in respect of tolls, tariffs and joint tariffs shall, so far as they are applicable, extend to the traffic carried by any company by water, between any ports or places in Ontario, if the company owns, charters, uses, maintains or works, or is a party to any arrangement for using, maintaining or working vessels for carrying traffic by water between any such ports or places.

Provisions
as to tolls

(2) The provisions of this Act in respect of tolls shall, in so far as they are applicable, extend and apply to

to apply
to bridge
or tunnel
company.

(a) any company which has power under any special Act to construct, maintain and operate any bridge or tunnel for railway purposes, or for railway and traffic purposes, and to charge tolls for traffic carried over, upon or through such structure by any railway; and

and to
traffic.

(b) the traffic so carried over, upon or through such structure. 3-4 Geo. V. c. 36, s. 4.

Exceptions,
qualifications,
etc., in
Special Act.

5. Any section of this Act may, by the special Act, be excepted from incorporation therewith, or may thereby be extended, limited or qualified, and it shall be sufficient, for the purposes of this section, to refer to any section of this Act by its number merely. 3-4 Geo. V. c. 36, s. 5.

As to ex-
ceptions,
etc., previous
to this Act.

6. If in any special Act heretofore passed, it is enacted that any provision of *The Railway Act of Ontario*, *The Electric Railway Act*, *The Street Railway Act* or *The*

Ontario Railway Act, 1906, in force at the time of the passing of such special Act, is excepted from incorporation therewith, or if the application of any such provision is, by such special Act, extended, limited or qualified, the corresponding provision of this Act shall be taken to be excepted, extended, limited or qualified in like manner; and, unless otherwise expressly provided in this Act or the special Act, this Act shall apply to every railway company incorporated under a special Act or any general Act, and the sections expressly made applicable shall apply to every street railway company so incorporated, but where the provisions of the special Act and the provisions of this Act are inconsistent the special Act shall be taken to over-ride the provisions of this Act so far as is necessary to give effect to such special Act. 3-4 Geo. V. c. 36, s. 6.

R. S. O. 1897,
c. c. 207, 208,
209: 6 Edw. VII.
c. 30.

Conflict
between
this Act
and special
Act.

7.—(1) Sections 8 to 52, 54 to 59, 66 to 68, 98, 104, 106, 110, 111, 129, 143, 147, 148, 154, 156, 162, 163 to 172, 175, 176, 210, 226, 227, 264 to 266, 272 to 280, 284 to 299, 301, 302, shall apply to street railway companies.

What sections to
apply to
street
railway
companies.

(2) Sections 8 to 52, 54 to 59, 98, 104, 110, 111, 129, 143, 147, 162, 177, 219, 236 to 238, 240, 257, 264 to 266, 272 to 280, 284 to 299 and 302, shall apply to incline railways.

or to incline rail-
ways.

3-4 Geo. V. c. 36, s. 7.

ORGANIZATION OF THE COMPANY.

Offices.

8. The head office of the company shall be at the place designated in the special Act, but the company may, by by-law, from time to time, change the location of its head office to any place in Ontario, notice whereof shall be given to the secretary of the Board who shall keep a register for the purpose of recording all changes so notified. 3-4 Geo. V. c. 36, s. 8.

Head office.

Change of
location.

Provisional Directors.

9.—(1) The persons mentioned by name as such in the special Act shall be the provisional directors of the company, and a majority of them shall be a quorum, and they shall hold office as such until the first election of directors, and may forthwith open stock books and procure subscriptions for shares, and receive payments on account thereof, and make calls upon subscribers in respect of their shares, and sue for and recover the same, and receive for the company any grant, loan, bonus or gift made to it or in aid of the undertaking, and enter into any agreement, authorized by this Act or by the special Act, with the person or corporation making such grant, loan, bonus or gift respecting the condition or disposition thereof, and cause plans and surveys to be made, and shall deposit in a chartered bank of Canada, having an office in Ontario, all money received by them, which

Provisional
directors.

Quorum.

Powers.

Deposit of
money.

shall not be withdrawn, except for the purposes of the undertaking, or upon the dissolution of the company.

Changes in board of provisional directors.

(2) The provisional directors may add to their number, or substitute for any member, whether named in the special Act, or by the said provisional directors, who may desire to resign or withdraw, any other person as a provisional director.

Allotment of stock.

(3) If more than the whole stock has been subscribed the provisional directors shall allocate and apportion the authorized stock among the subscribers as they deem most advantageous and conducive to the furtherance of the undertaking; and in such allocation and apportionment they may exclude any one or more of the subscribers, if, in their judgment, such exclusion will best secure the building of the railway.

Power of exclusion.

Meetings.

(4) All meetings of the provisional directors shall be held at the head office of the company or at such other place in Ontario as may, in their opinion, best suit the interests of the company.

When subscription for stock to be binding.

(5) No subscription for shares shall be binding on the company unless approved by resolution of the provisional directors or of the directors, nor unless ten per centum of the amount subscribed has been actually paid within one month after subscription. 3-4 Geo. V. c. 36, s. 9.

Capital.

Capital stock and shares.

10.—(1) The capital stock of the company, the amount of which shall be stated in the special Act, shall be divided into shares of \$100 each; and the money so raised shall be applied, in the first place, to the payment of all fees, expenses and disbursements for procuring the passing of the special Act, and for making the surveys, plans and estimates of the works authorized by the special Act; and the remainder of such money shall be applied to the making, equipping, completing and maintaining of the railway and other purposes of the undertaking.

Application of proceeds.

Calling first meeting for election of directors.

(2) So soon as twenty-five per centum of the capital stock is subscribed and ten per centum paid thereon into a chartered bank of Canada, having an office in Ontario, to the credit of the company, the provisional directors, or a majority of them, shall call a general meeting of the shareholders for the purpose of electing directors of the company, giving at least four weeks' notice by advertisement in the *Ontario Gazette*, and in at least one newspaper published in the place where the head office is situate, of the time, place and purpose of the meeting.

Notice.

When subscribers may call first general meeting.

(3) If the provisional directors neglect to call such meeting, for three months after twenty-five per centum of the capital stock shall have been subscribed and ten per centum thereof paid up, the same may be called by any five of the

subscribers who have so paid up ten per centum and who collectively have subscribed for not less than twenty-five shares of the capital stock and who have paid up all calls thereon.

(4) At such general meeting the shareholders present, First election of directors. either in person or by proxy, who shall at the opening of such meeting have paid up ten per centum on the shares subscribed by them, shall elect directors, in manner and qualified as hereinafter mentioned, who shall constitute the board of directors and shall hold office until the next general annual meeting. 3-4 Geo. V. c. 36, s. 10.

11.—(1) The capital stock of the company may, with the Increase of capital stock. approval of the Board, be increased, from time to time, to any amount, if

(a) such increase is sanctioned by a vote, in person or Approval by shareholders. by proxy, of the shareholders who hold at least two-thirds in amount of the subscribed stock of the company, at a meeting expressly called by the directors for that purpose; and

(b) the proceedings of such meeting have been entered Entry of proceedings in minutes. in the minutes of the proceedings of the company.

(2) Notice in writing, stating the time, place and object Notice of meeting and object. of such meeting, and the amount of the proposed increase, shall be given to each shareholder, at least twenty days previously to such meeting, by delivering the notice to the shareholder personally, or depositing the same in the post office, post paid and properly directed to the shareholder.

(3) Such fees as may be prescribed in the case of other Fees on such applications. companies shall be payable in respect of applications to the Board for its approval of the increase of the capital stock of the company. 3-4 Geo. V. c. 36, s. 11.

General Meetings.

12.—(1) A general meeting of the shareholders for the Annual meetings. election of directors and for the transaction of other business connected with or incident to the undertaking, to be called "the annual meeting," shall be held annually on the day mentioned in the special Act, or on such day as may be fixed for that purpose by the by-laws of the company; and other general meetings, to be called "special meetings," may be Special meetings. called at any time by the directors, or by shareholders representing at least one-fourth in value of the subscribed stock. if the directors, having been requested by such shareholders to convene such special meeting, for twentyone days thereafter fail to call such meeting.

(2) The annual meetings shall be held at the head office Place of annual. of the company.

Place of
special
general
meetings.

(3) Special general meetings may be held at such places in Ontario and at such times and in such manner and for such purposes as may be provided by the by-laws of the company. 3-4 Geo. V. c. 36, s. 12.

Notice of
meetings.

13.—(1) Two weeks' notice of any meeting of the shareholders shall be given by advertisement once in each week for two successive weeks in at least one newspaper published in the place where the head office is situate.

Contents.

(2) The notice shall specify the place and the day and the hour of the meeting; and a copy of the newspaper containing the notice shall be evidence of the publication. 3-4 Geo. V. c. 36, s. 13.

Evidence.

What busi-
ness may
be trans-
acted.

14.—(1) Any business connected with or incident to the undertaking may be transacted at an annual meeting, excepting such business as by this Act is required to be transacted at a special meeting; but no special meeting shall enter upon any business not set forth in the notice by which it is convened.

Exception.

Votes
according to
shares.

(2) At any meeting of the shareholders every shareholder shall be entitled to as many votes as he holds shares in the company upon which all calls due have been paid.

Privilege to
vote by
proxy.

(3) Every shareholder may vote by proxy if such proxy produces from his constituent an appointment in writing in the words or to the effect following,—

Form of
proxy.

I, _____, of _____, one of the shareholders of the _____, do hereby appoint _____, to be my proxy, and in my absence to vote for me or give my assent to any business, matter or thing relating to the undertaking of the _____ that is mentioned or proposed at any meeting of the shareholders of the company, in such manner as he thinks proper.

In witness whereof, I have hereunto set my hand and seal, the _____ day of _____, 19____.

Qualifica-
tion of
proxy.

(4) A vote by proxy shall be as valid as if the constituent had voted in person, but no person shall be qualified to be appointed a proxy who is not himself a shareholder; and every matter or thing proposed or considered at any meeting of the shareholders shall be determined by the majority of votes; and all decisions and acts of any such majority shall bind the company and be deemed the decisions and acts of the company. 3-4 Geo. V. c. 36, s. 14.

Majority to
govern.

Evidence of
minutes, etc.

15. A copy of the minutes of proceedings and resolutions of the shareholders of the company at any annual or special meeting, or of the minutes of proceedings and resolutions of the directors at their meetings, extracted from the minute book, kept by the secretary of the company, and by him certified to be a true copy extracted from such minute book and purporting to be sealed with the company's seal

shall, without proof of the signature of such secretary, be evidence of such proceedings and resolutions. 3-4 Geo. V. c. 36, s. 15.

16. All notices given by the secretary of the company by order of the directors shall be deemed notices by the directors of the company. 3-4 Geo. V. c. 36, s. 16. Effect of notices by secretary.

Powers and Duties of Directors.

17.—(1) A board of directors of the company to manage its affairs, the number of whom shall be stated in the special Act, and a majority of whom shall form a quorum, shall be chosen at the annual meeting, and if such election is not held on the day appointed therefor the directors shall cause such election to be held at a special meeting duly called for that purpose within as short a time as possible after the day so appointed. Election of board of directors. Time.

(2) No person shall be admitted to vote at such special meeting unless he would have been entitled to vote had the election been held on the day on which it ought to have been held. Who entitled to vote.

(3) Vacancies in the board of directors shall be filled in the manner prescribed by the by-laws. Vacancies.

(4) No person shall be a director unless he is a shareholder, owning at least ten shares absolutely in his own right, and qualified to vote for directors at the election at which he is chosen. Qualification of directors.

(5) If the company has received aid towards the construction of its railway or undertaking, or any part thereof, from the Government of Ontario, under any Act of this Legislature, a majority of its directors shall be British subjects. When majority to be British subjects.

(6) The directors appointed at the last election or those appointed in their stead, in case of vacancy, shall remain in office until the next ensuing election of directors. Term of office of directors.

(7) So long as a quorum of directors remains in office vacancies in the board may be filled by such directors as remain in office. When directors may fill vacancies.

(8) Whenever there is not a quorum of directors in office it shall be the duty of the remaining directors or director forthwith to call a meeting of the shareholders to fill the vacancies, and in default the meeting may be called by any shareholder. When no quorum.

(9) If there are no directors remaining in office a meeting to elect directors may be called without service of any requisition. When no directors.

(10) The directors shall, at their first or at some other meeting after the election, elect one of their number to be the President.

Vice-
President.

president of the company who shall, when present, be the chairman at all meetings of the directors, and shall hold his office until he ceases to be a director, or until another president has been elected in his stead; and they may in like manner elect a vice-president who shall act as chairman in the absence of the president.

Powers of
quorum.

(11) The directors, at any meeting at which not less than a quorum are present, shall be competent to use and exercise all and any of the powers vested in the directors.

Powers of
majority
of quorum.

(12) The act of a majority of a quorum of the directors present at any meeting regularly held shall be deemed the act of the directors.

Casting vote.

(13) No director shall have more than one vote at any meeting, except the chairman, who shall, in case of a division of equal numbers, have the casting vote. 3-4 Geo. V. c. 36, s. 17.

Submission
of directors
to control
of share-
holders and
to by-laws.

18. The directors shall be subject to the control of the shareholders at their annual meetings, and to all by-laws of the company, and to the orders and directions from time to time made at the annual or at any special meetings, such orders and directions not being contrary to any express directions or provisions of this Act or the special Act. 3-4 Geo. V. c. 36, s. 18.

Contractors
with com-
pany not
to be
directors.

19.—(1) No person concerned or interested in any contract under or with the company, or being surety for any contractor, shall be capable of being chosen a director, or of holding or continuing in the office of director or provisional director, nor shall any person being a director or provisional director or promoter of the company enter into or be directly or indirectly interested or concerned in or participate in the profit of any contract with the company, not relating to the purchase of land necessary for the railway, or be or become a partner of any contractor with the company.

Liability of
person
offending.

(2) If any such contract is made by or on behalf of any director or provisional director or promoter an action shall lie against him at the suit of any shareholder or of the corporation of any municipality through which any part of the railway passes, for the benefit of the funds of the company, for the whole amount of profit accruing to such director, provisional director or promoter from the contract. 3-4 Geo. V. c. 36, s. 19.

Power of
directors to
make
regulations.

20.—(1) The directors may make rules, regulations and by-laws, not inconsistent with this Act, for the management and disposition of the shares, property, business and affairs of the company, and for the appointment of all officers, servants and artificers, and for prescribing their duties and salaries.

(2) The directors may also employ and pay one of their ^{Manager.} number as managing director. 3-4 Geo. V. c. 36, s. 20.

21. The directors may appoint such officers as they deem ^{Appointment of officers.} requisite, and shall take sufficient security from the manager and officers for the safe keeping and accounting by them of the money raised by virtue of this Act and the special Act, and for the faithful execution of their offices. 3-4 Geo. V. c. 36, s. 21.

22. The directors may by by-law or resolution provide for ^{Retirement of officers, etc.} the retirement of any of the company's officers and servants, on such terms as to an annual allowance or otherwise, as the directors, in the interest of the company's service and under the circumstances, consider just and reasonable. 3-4 Geo. V. c. 36, s. 22.

23. The directors may be paid such reasonable remunera- ^{Remuneration of directors.} tion for their services as may be sanctioned by the shareholders by resolution passed at the annual general meeting to be held for the purpose of electing the successors of such directors. 3-4 Geo. V. c. 36, s. 23.

24. In case of the absence or illness of the president, the ^{Acting president.} vice-president, and in case of the absence or illness of the president and vice-president, a director appointed by the directors for that purpose shall have all the rights and powers of the president, and may sign all debentures and other instruments, and perform all acts which, by the regulations and by-laws of the company or by this Act, are required to be signed, performed or done by the president. 3-4 Geo. V. c. 36, s. 24.

25. The directors may at any meeting require the secre- ^{Noting absence of president, etc., in minutes.} tary to enter a note of such absence or illness upon the minutes of the meeting, and a certificate thereof signed by the secretary shall be delivered to any person requiring the same on payment of \$1, and such certificate shall be *prima facie* evidence of such absence, or illness at and during the period ^{Evidence.} mentioned in the certificate. 3-4 Geo. V. c. 36, s. 25.

26. The directors shall cause to be kept, and, annually on ^{Accounts.} the 31st day of December, shall cause to be made up and balanced a true, exact and particular account of all money received by the company, or by the directors or manager thereof, or otherwise for the use of the company, and of the charges and expenses attending the erecting, making, supporting, maintaining and carrying on of the undertaking, and of all other receipts and expenditures of the company. 3-4 Geo. V. c. 36, s. 26.

Calls.

Calls.

27.—(1) The directors may from time to time make such calls, not exceeding ten per centum of the amount subscribed, upon the shareholders, in respect of the amount of capital respectively subscribed or owing by them, as they deem necessary, and thirty days' notice at the least shall be given of each call; and no call shall exceed the prescribed amount determined in the special Act, or be made at a less interval than two months from the previous call, nor shall a greater amount be called in, in any one year, than the amount prescribed in the special Act; but nothing herein shall prevent the directors from making more than one call by one resolution if the intervals between such calls, the notices of each call, and the other provisions of this Act and of the special Act, in respect of calls, are duly observed and given.

Notice.

Publication.

(2) All notices of calls shall be published in the *Ontario Gazette*.

Liability for payment of calls.

(3) Every shareholder shall be liable to pay the amount of the call to the persons and at the times and places from time to time appointed by the company or the directors.

Interest on unpaid calls.

(4) Interest shall accrue upon the amount of any unpaid call from the day appointed for the payment thereof to the time of the actual payment.

What allegations necessary in actions for calls.

(5) In an action to recover money due upon a call it shall be sufficient to state that the defendant is the holder of one share or more, stating the number of shares, and is indebted in the sum of money to which the calls in arrear amount, stating the number and amount of each call, whereby an action has accrued to the company by virtue of the special Act. 3-4 Geo. V. c. 36, s. 27.

Shares and their Transfer.

Shares to be deemed personal estate, how transferable.

28.—(1) The shares of the company shall be deemed personal estate and shall be transferable on the books of the company in such manner and subject to such conditions and restrictions as, by this Act, the special Act, the letters patent, supplementary letters patent or by-laws of the company, may be prescribed.

No restrictions upon transfer of paid-up shares.

(2) Subject to subsection 1 no by-law shall be passed which in any way restricts the rights of a holder of paid up shares to transfer the same, but nothing in this section shall prevent the regulation of the mode of transfer thereof. 3-4 Geo. V. c. 36, s. 28.

Transfer of shares not paid up.

29. No transfer of shares, the whole amount whereof has not been paid up, shall be made without the consent of the directors. 3-4 Geo. V. c. 36, s. 29.

30. If any share is transmitted by the death, bankruptcy, ^{Transmis-} or last will, donation or testament, or by the intestacy of ^{sion of} any shareholder, or by any lawful means other than the ^{shares, other} transfer hereinbefore mentioned, the person to whom such ^{than by} share is so transmitted shall deposit in the office of the com- ^{transfer,} ^{provided} ^{for.} pany a statement, in writing signed by him, declaring the manner of such transmission, together with a duly certified copy or probate of such will, donation or testament, or sufficient extracts therefrom, and such other documents or proof as may be necessary and until that has been done such person shall not be entitled to receive any share of the profits of the company, or to vote in respect of any such share as the holder thereof. 3-4 Geo. V. c. 36, s. 30.

31. The company shall not be bound to see to the execu- ^{Company} ^{not bound} ^{to see to} ^{execution} ^{of trusts.} tion of any trust, whether express, implied or constructive, to which the share may be subject; and the receipt of the person in whose name any share stands in the books of the company, or if it stands in the names of more persons than one, the receipt of one of the persons named in the register of shareholders, shall be a sufficient discharge to the company for any dividend or other sum of money payable in respect of the share, notwithstanding any trust to which the share may then be subject, and whether or not the company have had notice of the trust; and the company shall not be bound to see to the application of the money paid upon such receipt. 3-4 Geo. V. c. 36, s. 31.

32. The certificate of proprietorship of a share shall be ^{Prima facie} ^{evidence of} ^{title.} *prima facie* evidence of the title of the person named therein, his executors, administrators, successors or assigns, to such share. 3-4 Geo. V. c. 36, s. 32.

33.—(1) Every shareholder who makes default in the ^{Non-pay-} ^{ment of} ^{calls.} payment of any call payable by him, together with the interest, if any, accrued thereon, for the space of two months after the time appointed for the payment thereof, shall forfeit to ^{Forfeiture.} the company his shares in the company and all the profit and benefit thereof.

(2) No advantage shall be taken of the forfeiture unless ^{When} ^{forfeiture} ^{enforceable.} the shares are declared to be forfeited at a general meeting of the company, assembled at any time after such forfeiture has been incurred. 3-4 Geo. V. c. 36, s. 33.

34. Every shareholder so forfeiting shall be by such forfe- ^{Effect of} ^{forfeiture.} *Effect of* *forfeiture.* *forfeiture*, relieved from liability in all actions, suits or prosecutions whatsoever which may be commenced or prosecuted against him for any breach of the contract existing between such shareholder and the other shareholders by reason of such shareholder having subscribed for or become the holder of the shares so forfeited. 3-4 Geo. V. c. 36, s. 34.

Sale of
forfeited
shares.

35.—(1) The directors may, subject as hereinafter provided, sell, either by public auction or private sale, any shares so declared to be forfeited, upon authority therefor having been first given by the shareholders, either at the general meeting at which such shares were declared to be forfeited or at any subsequent general meeting.

Limitation.

(2) The directors shall not sell or transfer more of the shares of any such defaulter than will be sufficient, as nearly as can be ascertained at the time of such sale, to pay the arrears then due from such defaulter on account of any calls, together with interest, and the expenses attending such sale and declaration of forfeiture.

Surplus
proceeds to
defaulter.

(3) If the money produced by the sale of any such forfeited shares is more than sufficient to pay all arrears of calls and interest thereon due at the time of such sale, and the expenses attending the declaration of forfeiture and the sale of such shares, the surplus shall, on demand, be paid to the defaulter.

Payment of
arrears be-
fore sale.

(4) If payment of such arrears of calls and interest and expenses is made before any share so forfeited and vested in the company is sold, such share shall revert to the person to whom it belonged before such forfeiture, who shall be entitled thereto as if such calls had been duly paid.

Who may
purchase.

(5) Any shareholder may purchase any forfeited share so sold. 3-4 Geo. V. c. 36, s. 35.

Certificate
of treasurer
to consti-
tute title.

36.—(1) A certificate of the treasurer of the company that any share of the company has been declared forfeited for non-payment of any call, and that such share has been purchased by a purchaser therein named shall, together with the receipt of the treasurer of the company for the price of such share, constitute a good title thereto.

To be
registered.

(2) Such certificate shall be registered by the treasurer in the name and with the place of abode and occupation of the purchaser, and shall be entered in the books to be kept by the company, and such purchaser shall thereupon be deemed to be the holder of such share.

Purchase
money.

(3) The purchaser shall not be bound to see to the application of the purchase money.

Irregularity.

(4) The title of the purchaser to such share shall not be affected by any irregularity in the proceedings in reference to such sale. 3-4 Geo. V. c. 36, s. 36.

Rights to
pay in
advance
of calls.

37.—(1) A shareholder who is willing to advance the amount of his shares, or any part of the money due upon his shares beyond the sums actually called for, may pay the same to the company.

(2) Upon the principal money so paid in advance, or so much thereof as, from time to time, exceeds the amount of the calls then made upon the shares in respect to which such advance is made, the company may pay interest, at such rate as the shareholders who pay such sum in advance and the company agree upon.

Interest on
advance
made by
shareholder
to company.

(3) Such interest shall not be paid out of the capital sub- Condition.
scribed. 3-4 Geo. V. c. 36, s. 37.

Shareholders.

38. Every shareholder shall be individually liable to the creditors of the company for the debts and liabilities of the company to an amount equal to the amount unpaid on the stock held by him, and until the whole amount of his stock has been paid up; but no action shall be instituted or maintained against any shareholder in respect of such liability until an execution at the suit of the creditor against the company has been returned unsatisfied in whole or in part. 3-4 Geo. V. c. 36, s. 38.

Extent of
shareholders'
liability.

39. A true and perfect account of the names and places of abode of the several shareholders shall be entered in a book to be kept for that purpose, as well as of the several persons who from time to time become proprietors of or entitled to any shares therein, and of all the other acts, proceedings and transactions of the company and of the directors for the time being and such account shall be open to the inspection of the shareholders. 6 Edw. VII. c. 30, s. 36.

Account of
names and
residence
of share-
holders to
be kept.

And of all
proceedings.

40. All shareholders in the company, whether British subjects or aliens, or resident in Ontario or elsewhere, shall have equal rights to hold stock in the company, and to vote on the same, and, subject as herein provided, shall be eligible to office in the company. 3-4 Geo. V. c. 36, s. 40.

Rights of
aliens or
non-residents.

Preference Stock.

41.—(1) The directors may pass by-laws for creating and issuing any part of the capital stock as preference stock, giving the same such preference and priority as respects dividends and otherwise over ordinary stock as may be declared by the by-law.

By-law
for issuing.

(2) The by-law may provide that the holders of shares of such preference stock shall have the right to elect a certain stated proportion of the board of directors, or may give them such other control over the affairs of the company as may be considered expedient.

Special
rights of
preference
share-
holders.

(3) Subject to subsection 4 no such by-law shall have any force or effect until it has been unanimously sanctioned by a vote of the shareholders present, in person or by proxy, at

Unanimous
sanction
required.

a general meeting of the company duly called for considering the same, or unanimously sanctioned in writing by the shareholders of the company.

Approval
of Board.

(4) If the by-law is sanctioned by three-fourths in value of the shareholders the company may apply to the Board for an order approving the by-law, and the Board may approve thereof and from the date of such approval the by-law shall be valid and may be acted upon.

Rights and
liabilities of
preference
shareholders.

(5) Holders of shares of such preference stock shall be shareholders within the meaning of this Act, and shall in all respects possess the rights and be subject to the liabilities of shareholders, except that in respect of dividends and otherwise they shall, as against the ordinary shareholders, be entitled to the preferences and rights given by such by-law.

Rights of
creditors
preserved.

(6) Nothing in this section or done in pursuance of it shall affect or impair the rights of creditors of the company. 3-4 Geo. V. c. 36, s. 41.

Dividends and Interest.

Declaration
of dividends.

42. Dividends, at and after the rate of so much per share upon the several shares held by the shareholders in the stock of the company, may, from time to time, be declared and paid by the directors out of the net profits of the undertaking. 3-4 Geo. V. c. 36, s. 42.

Reserve
fund.

43.—(1) The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve fund to meet contingencies, or for equalizing dividends, or for repairing, maintaining, renewing or extending the railway or any portion thereof, and shall submit their action in regard to such reserve fund to the shareholders at a general meeting for their approval.

Investment
of same.

(2) The directors may invest the sum so set apart as a reserve fund in such securities, not inconsistent with this or the special Act as they select. 3-4 Geo. V. c. 36, s. 43.

Dividend
not to im-
pair capital,
etc.

44. No dividend shall be

(a) declared whereby the capital of the company is in any degree reduced or impaired; or

(b) paid out of such capital; or

Calls to
be paid.

(c) paid in respect of any share after a day appointed for payment of any call in respect thereof, until such call has been paid,

Interest
may be paid
on calls
pending
opening of
road.

but the directors may, in their discretion, until the railway is completed and opened to the public, pay interest, at any rate not exceeding five per centum per annum, on all sums

actually paid in cash in respect of the shares, from the respective days on which the same have been paid; and such interest shall accrue and be paid at such time and places as the directors appoint for that purpose. 3-4 Geo. V. c. 36, s. 44.

45. No interest shall accrue to any shareholder in respect of any share upon which any call is in arrear, or in respect of any other share held by such shareholder while such call remains unpaid. 3-4 Geo. V. c. 36, s. 45.

46. The directors may deduct from any dividend payable to any shareholder all or any such sum or sums of money as are due from him to the company on account of any call or otherwise. 3-4 Geo. V. c. 36, s. 46.

Bonds, Mortgages, and Borrowing Powers.—Foreclosure.

See section 137 of R.S.C. cap. 37.

47.—(1) The directors, under the authority of the shareholders, given at a special meeting called for the purpose or at any annual meeting for which like notice of intention to apply for such authority has been given as is required in the case of a special meeting, and at which meeting, whether annual or special, shareholders representing at least two-thirds in value of the subscribed stock of the company and who have paid all calls due thereon are present in person or represented by proxy, may, subject to the provisions in this Act and the special Act contained, issue bonds, debentures, perpetual or terminating debenture stock, or other securities, signed by the president or other presiding officer and countersigned by the secretary, which countersignature and the signature to the coupons attached to the same may be engraved; and such securities may be made payable at such times and in such manner and at such place or places in Canada or elsewhere, and may bear such rate of interest, not exceeding five per centum per annum, as the directors think proper.

When
issue of
securities
authorized.

Presence of
shareholders.

When and
where pay-
able.

Interest.

(2) Such securities shall not exceed the amount authorized by the special Act and may be issued only in proportion to the length of railway constructed or under contract to be constructed.

Limit of
bonding
powers.

(3) The directors may, for the purpose of raising money for prosecuting the undertaking, issue and sell or pledge all or any of such securities.

Raising
money on
securities.

(4) No such security shall be for a less sum than \$100.

Denomina-
tions.

(5) The power of issuing securities conferred by this or the special Act shall not be exhausted by any issue; but may be exercised from time to time upon the securities constituting the issue being withdrawn or paid off and duly cancelled; but in no case shall the limit fixed in the special Act be exceeded. 3-4 Geo. V. c. 36, s. 47.

Continuance
of right to
issue
securities.

Limit.

Mortgages
securing
bonds, etc.

How
ranked.

Powers
conferred
on holders.

Exception
of part
of assets.

Must be
specified.

Mortgage to
be deposited
with the
Board and
notice given.

Evidence.

Effect of
securities as
a preferential
charge.

Holders
ranked
pro rata.

48.—(1) The company may secure such bonds, debentures, debenture stock or other securities, by a deed creating such mortgage, charge or incumbrance upon the whole of such property, assets, rents and revenues of the company, present or future or both, as are described in the deed; but the same shall be subject in the first instance to the payment of any penalty imposed for non-compliance with the requirements of this Act and next to the payment of the working expenditure of the railway.

(2) By the deed the company may grant to the holders of such securities, or the trustees named in the deed, the powers, rights and remedies granted by this Act in respect of such securities, and all other powers, rights and remedies, not inconsistent with this Act, or may restrict the holders in the exercise of any power, privileges or remedy granted by this Act, and all the powers, rights and remedies so provided for shall be valid and binding and available to the holders in manner and form as therein provided.

(3) The company may except from the operation of any such deed any property, assets, rents or revenue of the company, and may declare and provide therein that such mortgage shall only apply to and affect certain sections or portions of the railway or property of the company, but where any such exception is made, the company shall in such deed expressly specify and describe, with sufficient particularity to identify the same, the property assets, rents or revenue of the company, or the sections or portions of the railway not intended to be included therein or conveyed thereby.

(4) Every such deed, and every assignment thereof or other instrument in any way affecting such mortgage or security, shall be deposited in the office of the Board, of which deposit notice shall forthwith be given in the *Ontario Gazette*; and such deed or other instrument need not be registered under the provisions of any law respecting registration of instruments affecting real or personal property.

(5) A copy of any such deed or instrument so deposited certified to be a true copy by the Secretary, shall be *prima facie* evidence of the original without proof of the signature of such official. 3-4 Geo. V. c. 36, s. 48.

49.—(1) Subject as hereinbefore provided to the payment of penalties, and to the working expenditure of the railway and to any restriction or exception contained in the deed, the securities hereby authorized to be issued shall be the first preferential claim and charge upon the company, and the franchise, undertaking, tolls and income, rents and revenues, and real and personal property thereof, at any time acquired.

(2) Each holder of such securities shall be deemed to be a mortgagee or incumbrancer upon the securities, *pro rata*

with all the other holders, but no proceeding authorized by law or by this Act, shall be taken to enforce payment of such securities or of the interest thereon except through the trustee or trustees appointed by or under the deed. 3-4 Geo. V. c. 36, s. 49.

50.—(1) If the company makes default in paying the principal of or interest on any of such securities, at the time when the same becomes due and payable, then at the next annual general meeting of the company, and at all subsequent meetings, all holders of securities so being and remaining in default shall, in respect thereof, have the same rights and privileges and qualifications for being elected directors and for voting at general meetings as would attach to them as shareholders if they held fully paid up shares of the company to a corresponding amount.

Rights of holders of securities upon default in payment.

(2) Each such holder shall, for the purpose of voting at any such meeting, be deemed to be a shareholder and shall be entitled to as many votes as if he held shares in the company on which all calls had been paid, equal at a par valuation to the amount of such securities so held by him, and may vote by proxy in like manner and to the same extent as a shareholder; but no person who is not himself a holder of such security or a shareholder in the company shall be qualified to be appointed a proxy.

Right of holders to vote at meetings. How determined.

Proxies.

(3) The rights given by this section shall not be exercised by any such holder unless it is so provided by the deed, nor unless the security in respect of which he claims to exercise such rights has been registered in his name, in the same manner as the shares of the company are registered, at least ten days before he attempts to exercise the right of voting thereon; and the company shall be bound on demand to register such securities, and thereafter any transfers thereof in the same manner as shares or transfers of shares.

Limitation of right of voting.

(4) The exercise of the rights given by this section shall not take away, limit or restrict any other of the rights or remedies to which the holders of the securities are entitled under the provisions of the deed. 3-4 Geo. V. c. 36, s. 50.

Other rights under mortgage deed preserved.

51. All securities hereby authorized may be made payable to bearer, and shall in that case be transferable by delivery, until registration thereof as hereinbefore provided, and while so registered they shall be transferable by written transfers, registered in the same manner as the transfers of shares. 3-4 Geo. V. c. 36, s. 51.

Mode of transfer of securities.

As to deposit of mortgage to secure bonds covering rolling stock hired to company, see Bills of Sales and Chattel Mortgage Act, R.S.O. c. 135.

Borrowing money by overdraft or negotiable instrument.

52.—(1) The company may, for the purposes of the undertaking, borrow money by overdraft or upon promissory note, bill of exchange, warehouse receipt, or otherwise upon the credit of the company, and become party to promissory notes and bills of exchange.

Binding nature of instrument.

(2) Every such note or bill made, drawn, accepted or endorsed, by the president or vice-president, or other officer authorized by the by-laws, and countersigned by the secretary, shall be binding on the company; and shall be presumed to have been made, drawn, accepted or endorsed with proper authority, until the contrary is shown.

Presumption.

No seal necessary.

(3) It shall not be necessary to have the seal of the company affixed to such promissory note or bill of exchange, nor shall the president or vice-president or secretary or other officer so authorized be individually responsible for the same, unless such promissory note or bill of exchange has been issued without proper authority.

Notes not to be payable to bearer.

(4) Nothing in this section shall be construed to authorize the company to issue any note or bill payable to bearer, or intended to be circulated as money or as the note or bill of a bank. 3-4 Geo. V. c. 36, s. 52.

Interpretation.

53.—(1) In this section

- (a) "Purchaser" shall include a mortgagee or his assigns who has obtained title by foreclosure,
- (b) "Conveyance" shall include a judgment or order for foreclosure.

Enforcing mortgages.

(2) Every mortgage heretofore or hereafter made by a railway, electric railway, street railway or incline railway company may be enforced by judgment for foreclosure or sale in the same manner and to the same extent as such mortgage could be so enforced if the same had been made by a company not incorporated for any public purpose.

Purchaser without corporate powers to obtain authority to operate.

(3) If a railway, electric railway, street railway or incline railway, or any section thereof is sold under the provisions of any deed or mortgage, or at the instance of the holders of any mortgage, bonds or debentures, for the payment of which any charge has been created thereon, or under any other lawful proceeding, and is purchased by any person not having corporate power to hold and operate the same, the purchaser shall not run or operate such railway, electric railway or street railway, or incline railway until authority therefor has been obtained as in this section provided.

Application to Provincial Secretary by purchaser.

(4) The purchaser shall transmit to the Provincial Secretary an application in writing stating the fact of such purchase, describing the termini and lines of route of the railway, electric railway, street railway or incline railway purchased, specifying the charter or special Act under which

the same was constructed and operated, and requesting authority to run and operate the same, and shall, with such application, transmit a copy of any writing preliminary to the conveyance of such railway, electric railway, street railway, or incline railway, made as evidence of such sale, and also a duplicate or authenticated copy of the deed of conveyance of such railway, electric railway, street railway or incline railway, and such further details and information as the Provincial Secretary may require.

(5) Upon any such application, the Provincial Secretary may, if he is satisfied therewith, grant an order authorizing the purchaser to run and operate the railway purchased until the end of the then next session of this Legislature, subject to such terms and conditions as the Provincial Secretary may deem expedient.

Interim authorization by Provincial Secretary.

(6) The purchaser shall thereupon be authorized, for such period only and subject to such order, to operate such railway, electric railway, street railway, or incline railway, and to take and receive such tolls in respect of traffic carried thereon as the company previously owning and operating the same was authorized to take, and the purchaser shall also be subject to the terms and conditions of the charter or special Act of the said company in so far as the same can be made applicable.

How far purchaser thereupon authorized to operate railway.

(7) Such purchaser shall apply to this Legislature at the next following session thereof after the granting of such order by the Provincial Secretary, for an Act of incorporation or other legislative authority, to hold, operate and run the railway.

Application to Legislature.

(8) If such application is made and is unsuccessful the Provincial Secretary may extend the order to run and operate the railway until the end of the then next following session of this Legislature, and no longer.

One extension allowed.

(9) If, during such extended period, the purchaser does not obtain such Act of incorporation or other legislative authority such railway shall be closed or otherwise dealt with by the Provincial Secretary as may be determined by the Lieutenant-Governor in Council. 3-4 Geo. V. c. 36, s. 53.

Closing of road.

POWERS.

General Powers.

54. The company may, for the purposes of the undertaking, subject to the provisions in this and the special Act contained,

Of company.

(a) enter into and upon any land of any person whomsoever lying in the intended route or line of the railway, and make surveys, examinations or other necessary arrangements on such land for

Entry upon land.

- fixing the site of the railway, and set out and ascertain such parts of the land as are necessary and proper for the railway;
- Surveys.**
- Receive grants and bonuses.** (b) receive, take and hold, all voluntary grants and donations of land or other property or any bonus of money or debentures, or other benefit of any sort, made to it for the purpose of aiding in the construction, maintenance and accommodation of the railway; but the same shall be held and used for the purpose of such grants or donations only;
- Acquire property.** (c) purchase, take and hold of and from any person any land or other property necessary for the construction, maintenance and operation of the railway, and also alienate, sell or dispose of any land or property of the company which for any reason has become not necessary for the purposes of the railway;
- Dispose of property not required.**
- Placing of railway.** (d) make, carry or place the railway across or upon the land of any person on the located line of the railway;
- Cross and connect with other railways.** (e) cross any railway, or join the railway with any other railway at any point on its route, and upon the land of such other railway, with the necessary conveniences for the purposes of such connection, and the owners of both railways may unite in forming such intersection and grant the facilities therefor; and the amount of compensation to be made therefor, the point and manner of such crossing and connection shall be determined by the Board, as provided by this Act;
- Construction and operation of railway.** (f) make, complete, operate, alter and maintain the railway with one or more sets of rails or tracks, to be worked by the force or power of steam, electricity, or of the atmosphere, or by mechanical power, or any combination of them;
- Buildings, equipment, etc.** (g) construct, erect, and maintain all necessary and convenient roads, buildings, stations, depots, wharfs, docks, elevators, and other structures, and construct, purchase and acquire stationary or locomotive engines, rolling stock, and other apparatus necessary for the accommodation and use of the traffic and business of the railway;
- Branch railways.** (h) make branch railways, and manage the same, and for that purpose exercise all the powers, privileges and authority necessary therefor, in as full and ample a manner as for the railway;
- Transport passengers and freight.** (i) take, transport, carry and convey persons and goods on the railway, and regulate the time and manner

in which the same shall be transported, and the tolls to be charged therefor;

- (j) fell or remove any trees which stand within one hundred feet from either side of the right of way of the railway, or which are liable to fall across any railway track; Remove trees.
- (k) make or construct in, upon, across, under or over any railway, tramway, river, stream, water-course, canal, or highway, which the railway intersects or touches, temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings and fences; Make tunnels and other works.
- (l) divert or alter, as well temporarily as permanently, the course of any such river, stream, watercourse, or highway, or raise or sink the level thereof, in order the more conveniently to carry the same over, under or by the side of the railway; Divert highways and water-ways.
- (m) make drains or conduits into, through or under any land adjoining the railway, for the purpose of conveying water from or to the railway; Construct drains.
- (n) with the consent of the Board, after notice to any person interested, divert or alter the position of any water-pipe, gas-pipe, sewer, or drain, or any telegraph, telephone or electric lines, wires or poles; Divert drains, pipes and wires.
- (o) with the consent of the Board, after notice to any person interested, from time to time alter, repair or discontinue the works hereinbefore mentioned, or any of them, and substitute others in their stead; and Alter and substitute other works.
- (p) do all other acts necessary for the construction, maintenance and operation of the railway. Other necessary acts.

3-4 Geo. V. c. 36, s. 54.

Navigable Waters.

55. No company shall cause any obstruction in, or impede the free navigation of any river, water, stream or canal, to, upon, along, over, under, through or across which its railway is carried. 3-4 Geo. V. c. 36, s. 55. Duty not to obstruct navigation.

56. No company shall run its trains over any canal or over any navigable water without having first laid, and without maintaining, such proper flooring under and on both sides of its railway track over such canal or water as is deemed by the Board sufficient to prevent anything falling from the railway into such canal or water, or upon the boats, vessels, craft, or persons navigating such canal or water. 3-4 Geo. V. c. 36, s. 56. Proper flooring of bridges.

Compensation.

Application
of s. 54 (e).

57. The provisions for the ascertainment of compensation contained in clause (e) of section 54 shall not extend or apply to any railway incorporated under an Act of this Legislature when it is proposed that such railway shall cross, intersect, join, or unite with, or be crossed, intersected, joined or united with a railway within the legislative authority of the Parliament of Canada. 3-4 Geo. V. c. 36, s. 57.

Duty of
restoration.

58. The company shall restore, as nearly as possible, to its former state any river, stream, watercourse, highway, water-pipe, gas-pipe, sewer or drain, or any telegraph, telephone or electric line, wire or pole, which it diverts or alters, or it shall put the same in such a state as not materially to impair the usefulness thereof. 3-4 Geo. V. c. 36, s. 58.

Compensa-
tion for
damage.

59. The company shall, in the exercise of the powers by this or the special Act granted, do as little damage as possible, and shall make full compensation, in the manner herein and in the special Act provided, to all persons interested for all damage by them sustained by reason of the exercise of such powers. 3-4 Geo. V. c. 36, s. 59.

Taking or using Land of Other Companies.

Use of
land of
other com-
panies.

60.—(1) The company may take possession of, use or occupy any land belonging to any other railway company, use and enjoy the whole or any portion of the right of way, tracks, terminals, stations or station grounds of any other railway company, and have and exercise full right and power to run and operate its trains over and upon any portion of the railway of any other railway company, subject always to the approval of the Board first obtained and to any order and direction which the Board may make in regard to the exercise, enjoyment or restriction of such powers or privileges.

Approval
of Board.

Procedure
therefor.

(2) Such approval may be given upon application and notice, and, after hearing, the Board may make such order, give such directions, and impose such conditions or duties upon either party as to it may appear just or desirable, having due regard to the public and all proper interests.

Compensa-
tion.

(3) If the companies fail to agree as to the compensation the Board may, by order, fix the amount of the compensation to be paid in respect of the powers and privileges so granted. 3-4 Geo. V. c. 36, s. 60.

Public Land.

When and
how far
public lands,
beaches, etc.,
may be
occupied.

61.—(1) The company shall not take possession of, use or occupy any land belonging to Ontario without the consent of the Lieutenant-Governor in Council; but with such consent such company may take and appropriate for the use of

its railway and works, but not alienate, so much of the wild lands lying on the route of the railway as have not been granted or sold, and as may be necessary for the railway, as also so much of the public beach or of the land covered with the waters of any lake, river, stream or canal, or of their respective beds, as is necessary for making and completing and using its railway and works.

(2) The extent of the public beach or of the land covered with the water of any river or lake taken for the railway shall not exceed the quantity limited in section 81. 3-4 Geo. V. c. 36, s. 61. Limitation.

Telegraph, telephone and other lines.

62.—(1) Except as provided in section 63 the company may construct and operate an electric telegraph line and a telephone line throughout and along the whole line of railway, and the branches thereof, or any part of the railway or branches, and for the purpose of constructing, working and protecting such telegraph and telephone lines, the powers conferred upon telegraph companies by *The Telegraph Companies Act* are hereby conferred upon the company; but no poles shall be erected in the construction of such lines in or through any city, town or village except under an agreement with the corporation of such city, town or village, or in default of such agreement by leave of the Board and upon such terms and conditions as it may prescribe. Power to erect telegraph and telephone lines.
Rev. Stat. c. 180.
Limitation.

(2) Such telegraph and telephone lines shall be used exclusively for the purposes of the business of the company. Use of lines.

(3) Where any municipal corporation or person has authority to construct, operate and maintain a telephone system in any locality, and is desirous of obtaining connection or communication with or within any station or premises of the company in such locality, and cannot agree with the company with respect thereto, such municipal corporation or person may apply to the Board, and the Board may order the company to provide for such connection or communication upon such terms as to compensation as the Board deems just, and the Board may order and direct how, when, where, by whom and upon what terms and conditions such connection or communication shall be constructed, operated and maintained. Other telephone systems, connections with.
Terms.

(4) Notwithstanding anything in any Act contained, the Board, in determining the terms or compensation upon which any such connection or communication is to be provided for, shall not take into consideration any contract, lease or agreement now or hereafter in force by which the company has given or gives any exclusive or other privilege to any company or person, other than the applicant, with respect to any such station or premises. 3-4 Geo. V. c. 36, s. 62. Contracts giving exclusive privileges not to be taken into consideration.

Wires, etc.,
across
railway.

63.—(1) No lines or wires, for telegraphs, telephones or the conveyance of light, heat, power or electricity, shall be erected, placed or maintained across a railway without the leave of the Board.

Submission
of plans
to Board.

(2) Upon an application for such leave the applicant shall submit to the Board a plan and profile of the part of the railway proposed to be affected, showing the proposed location of such lines and wires and the works contemplated in connection therewith.

Order by
Board.

(3) The Board may grant such application and may order by whom, how, when, and on what terms and conditions, and under what supervision, such work shall be executed.

Erecting.

(4) Upon such order being made such lines and wires may be erected, placed and maintained across the railway subject to and in accordance with such order.

Order
dispensed
with where
compliance
with general
regulations.

(5) An order of the Board shall not be required in cases in which wires or other conductors for the transmission of electrical energy are to be erected or maintained over or under a railway, or over or under wires or other conductors for the transmission of electrical energy, with the consent of the railway company or the company owning or controlling such last mentioned wires or conductors, in accordance with any general regulations, plans or specifications adopted or approved by the Board. 3-4 Geo. V. c. 36, s. 63.

General
rules and
regulations
of Board.

64. The Board shall prescribe rules and regulations and standard plans and specifications to be adhered to in carrying lines of wires to be used for telephone and telegraph purposes across the railway, and no lines of such wires shall thereafter be carried across the railway in any other way or on any other terms without the leave of the Board, but in special cases, on the application of any person or corporation to be affected by such crossing, the Board may order that such crossing shall be made in some other manner than that prescribed by the standard plans and specifications. 3-4 Geo. V. c. 36, s. 64.

Proviso.

Interchange of Traffic.

One com-
pany may
agree with
another re-
specting
traffic.

65.—(1) The directors may, at any time and from time to time, make and enter into any agreement or arrangement, not inconsistent with this or the special Act, with any other company for the interchange of traffic between their railways or vessels and for the division and apportionment of tolls in respect of such traffic.

And agree-
ments for.

(2) The directors may also make and enter into any agreement or arrangement, not inconsistent with the provisions of this or the special Act, for any term not exceeding twenty-one years,—

- (a) for the running of the trains of one company over the tracks of another company; Running powers.
- (b) for the division and apportionment of tolls in respect of such traffic; Division of tolls.
- (c) generally in relation to the management and working of the railways, or any of them, or any part thereof, and of any railway or railways in connection therewith; and Management and working.
- (d) providing, either by proxy or otherwise, for the appointment of a joint committee for the better carrying into effect of any such agreement or arrangement, with such powers and functions as are considered necessary or expedient, Joint committee.

subject to the like consent of the shareholders, the sanction of the Board, application, notices and filing, as hereinafter provided with respect to amalgamation agreements, except that publication of notices in the *Ontario Gazette* shall be sufficient notice. Conditions.

(3) The Board may, notwithstanding anything in this section, by order or regulation, exempt the company from complying with any of the foregoing conditions, with respect to any such agreement or arrangement made or entered into by the company for the transaction of its usual and ordinary business. Board may exempt from conditions.

(4) Neither the making of any such agreement or arrangement, nor anything therein contained, nor any approval thereof, shall restrict, limit, or affect any power by this Act vested in the Board or relieve the companies from complying with the provisions of this Act. Saving.

(5) If any officer, servant or agent of a railway company, having the superintendence of the traffic at any station or depot thereof, refuses or neglects to receive, convey or deliver at any station or depot of the company for which they may be destined any passenger, goods or things, brought, conveyed or delivered to him or to such company for conveyance over or along the railway from that of any other company intersecting or coming near to such first-mentioned railway, or in any way wilfully contravenes the provisions of the next preceding subsection, such first-mentioned railway company or such officer, servant or agent, personally, shall, for every such neglect or refusal, incur a penalty not exceeding \$50 and shall in addition be liable to the person aggrieved for the actual damages sustained by reason of such wrongful act. Penalty on companies or their officers refusing or neglecting to forward traffic as above required.

(6) In case any company or municipality interested is unable to agree as to the regulation and interchange of traffic or in respect of any other matter in this section provided for, the same shall be determined by the Board. Damages. Board to determine.

Complaints.

(7) All complaints made under this section shall be heard and determined by the Board.

Street railways.

(8) This section shall apply to such street railways as may from time to time be determined by the Board. 3-4 Geo. V. c. 36, s. 65.

Amalgamation Agreements.

Agreement for sale, lease or amalgamation of railway.

66.—(1) Where the company is authorized, by the special Act, to enter into an agreement with any other company for selling, conveying or leasing to such company the railway and undertaking of the company, in whole or in part, or for purchasing or leasing from the company its railway and undertaking, in whole or in part, or for amalgamation, such agreement shall be first approved by two-thirds of the votes of the shareholders of each company, party thereto, at any annual general meeting, or at a special general meeting, of each company called for the purpose of considering such agreement, at each of which meetings shareholders representing at least two-thirds in value of the capital stock of each company are present or represented by proxy.

Approval of shareholders.

Sanction of Board.

(2) Upon such agreement being so approved and duly executed it shall be submitted to the Board for the sanction thereof.

Publishing notice of application.

(3) Notice of the proposed application for such sanction shall be published in the *Ontario Gazette* for at least one month prior to the time, to be stated therein, for the making of such application, and also, unless the Board otherwise orders, for a like period in one newspaper in each of the counties or districts through which the railway to be sold, leased or amalgamated runs in which a newspaper is published.

Action of Board.

Proceedings upon sanction.

Notice.

(4) Upon such notice being given the Board shall grant or refuse the application, and upon such agreement being sanctioned it shall be filed in the office of the Board and thereupon shall come into force and effect, and notice thereof shall be forthwith given in the *Ontario Gazette*.

Evidence of compliance with requirements.

(5) The production of the *Ontario Gazette* containing such notice shall be *prima facie* evidence of the requirements of this section having been complied with. 3-4 Geo. V. c. 36, s. 66.

Effect of amalgamation upon properties, powers and liabilities.

67. Upon any agreement for amalgamation coming into effect, as provided in the last preceding section, the companies, parties to such agreement, shall, subject to the provisions of this Act and the special Act authorizing such agreement to be entered into, be deemed to be amalgamated, and shall form one company under the name and upon the terms and conditions in such agreement provided; and the amalgamated company shall possess and be vested with all

the railways and undertakings, and all other the powers, rights, privileges, franchises, assets, effects, and properties belonging to, possessed by, or vested in the companies, parties to such agreement, or to which they, or any or either of them, may be or become entitled; and shall be liable for all claims, demands, rights, securities, causes of action, complaints, debts, obligations, works, contracts, agreements, or duties, to as full an extent as any or either of such companies was at or before the time when the amalgamation agreement came into effect. 3-4 Geo. V. c. 36, s. 67.

68.—(1) Notwithstanding anything in any agreement made or sanctioned under the provisions of the next preceding two sections, every act, matter or thing, done, effected or confirmed under or by virtue of this Act or the special Act, before the date of the coming into effect of such agreement, shall be as valid as if it had never come into effect; and such agreement shall be subject and without prejudice to every such act, matter or thing, and to all rights, liabilities, claims and demands, present or future, which would be incident to or consequent upon such act, matter or thing if such agreement had never come into effect. Saving of rights and claims.

(2) In the case of an agreement for amalgamation, as to all acts, matters and things so done, effected or confirmed, and as to all such rights, liabilities, claims and demands, the amalgamated company shall for all purposes stand in the place of and represent the companies who are parties thereto; and the generality of the provisions of this section shall not be deemed to be restricted by any special Act, unless this section is expressly referred to in it and expressly limited or restricted thereby. 3-4 Geo. V. c. 36, s. 68. Representation of former companies.

PLANS AND SURVEYS.

69.—(1) The company shall prepare and submit to the Board a map showing the general location of the proposed line of the railway, the termini and the principal towns and places through which the railway is to pass, giving the names thereof, the railways, navigable streams and tidewaters, if any, to be crossed by the railway, and such as may be within a radius of thirty miles of the proposed railway, and, generally, the physical features of the country through which the railway is to be constructed, and shall give such further or other information as the Board may require. Map of general location proposed.

(2) Such map shall be prepared upon a scale of not less than six miles to the inch, or upon such other appropriate scale as the Board may determine, and shall be accompanied by an application, stating the special Act authorizing the construction of such railway, and requesting the Board's approval of the general location as shown on the map. Scale. Application.

(3) Before approving such map and location the Board may, subject to the special Act, make such changes and altera- Approval.

Alterations.	tions therein as it may deem expedient, and, upon being satisfied therewith, shall signify its approval upon the map.
Filing.	(4) The map when so approved and the application shall be filed with the Board.
Board may approve whole or portion.	(5) The Board in approving of any such map and location may approve the whole or any portion thereof, and where it approves only a portion thereof it shall signify its approval upon the map accordingly.
Application of section.	(6) The provisions of this section shall only apply to the main line, and to branch lines over six miles in length. 3-4 Geo. V. c. 36, s. 69.
Plan, profile and book of reference.	70. —(1) Upon compliance with the provisions of the last preceding section the company shall make a plan, profile and book of reference of the railway.
Plan.	(2) The plan shall show <ul style="list-style-type: none"> (a) the right of way, with lengths of sections in miles; (b) the names of terminal points; (c) the station grounds; (d) the property lines and owners' names; (e) the areas and length and width of land proposed to be taken, in figures, stating every change of width; (f) the bearings; and (g) all open drains, watercourses, highways and railways proposed to be crossed or affected.
Profile.	(3) The profile shall show the grades, curves, highway and railway crossings, open drains and watercourses.
Book of reference.	(4) The book of reference shall describe the portion of land proposed to be taken in each lot to be traversed, giving number of the lots, and the area, length and width of the portion of each lot proposed to be taken, and the names of the owners and occupiers so far as they can be ascertained.
Further information.	(5) The Board may require any additional information for the proper understanding of the plan and profile.
Sections.	(6) The plan, profile and book of reference may be of a section or sections of the railway. 3-4 Geo. V. c. 36, s. 70.
Sanction by Board.	71. —(1) Such plan, profile and book of reference shall be submitted to the Board which, if satisfied therewith, may sanction the same.
Effect.	(2) The Board by such sanction shall be deemed to have approved merely the location of the railway and the grades and curves thereof as shown in such plan, profile and book

of reference, but not to have relieved the company from otherwise complying with this Act.

(3) The Board may sanction a deviation of not more than one mile from any one point on the general location approved under section 69. Board may sanction deviation of 1 mile.

(4) Before sanctioning any plan, profile or book of reference of a section of a railway the Board may require the company to submit the plan, profile and book of reference of the whole, or of any portion of the remainder of the railway, or such further or other information as the Board may deem expedient. Further information.

(5) In granting any such sanction the Board may fix a period (a) within which the company must acquire the land included in its right-of-way, or take the necessary steps for such purpose; or (b) within which the notices mentioned in section 90 shall be conclusively deemed to have been given; and in the event of the order granting such sanction, whether made before or after the passing of this Act, providing no such time limit, any owner or person interested in land included in the right of way, as shown by the plan, may apply to the Board for an order that the company shall acquire such lands or take the necessary steps for such purposes, within such time as the Board deems proper, and thereupon the Board may make such order in the premises as appears just. 3-4 Geo. V. c. 36, s. 71. Time for acquiring land. For giving notice.

72.—(1) The plan, profile and book of reference, when so sanctioned, shall be deposited with the Board, and plans shall be numbered consecutively in the order of their deposit. Deposit with Board.

(2) The company shall also deposit copies thereof, or of such parts thereof as relate to each county or district through which the railway is to pass, duly certified as copies by the secretary, in the offices of the registrars of deeds for such counties or districts. 3-4 Geo. V. c. 36, s. 72. In registry offices.

73. The railway may be made, carried or placed across or upon the land of any person on the located line, although through error or any other cause the name of such person has not been entered in the book of reference, or although some other person is erroneously mentioned as the owner of or entitled to convey, or is interested in such land. 3-4 Geo. V. c. 36, s. 73. Errors.

74.—(1) Where any omission, misstatement or error is made in any plan, profile or book of reference so registered the company may apply to the Board for a certificate to correct the same. Corrections. Procedure.

(2) The Board may require notice to be given to parties interested, and, if it appears to the Board that such omission, misstatement or error arose from mistake, may grant a cer- Certificate of correction.

tificate setting forth the nature of the omission, misstatement or error, and the correction allowed.

Deposit
of certificate
of correction.

(3) Upon the deposit of such certificate with the Board, and of copies thereof, certified as such by the Secretary, with the registrars of deeds of the counties or districts in which the lands are situate, the plan, profile or book of reference shall be taken to be corrected in accordance therewith, and the company may thereupon, subject to this Act, construct the railway in accordance with such correction. 3-4 Geo. V. c. 36, s. 74.

Duties of
registrars
of deeds.

75.—(1) Every registrar of deeds shall receive and preserve in his office all plans, profiles, books of reference, certified copies thereof, and other documents required by this Act to be deposited with him, and shall endorse thereon the day, hour and minute when the same were so deposited.

Extracts
and copies.

(2) All persons may resort to such plans, profiles, books of reference, copies and documents so deposited, and may make extracts therefrom, and copies thereof as occasion requires, paying the registrar therefor at the rate of ten cents for each hundred words so copied or extracted and ten cents for each copy made of any plan or profile.

Fees.

Certified
copies.

(3) The registrar shall, at the request of any person, certify copies of any such plan, profile, book of reference, or document, so deposited in his office, or of such portions thereof as may be required, on being paid therefor at the rate of ten cents for each hundred words copied, and such additional sum for any copy of plan or profile furnished by him as is reasonable and customary in like cases, together with fifty cents for each certificate given by him.

Fees.

Certificate
of registrar.

(4) Such certificate shall set forth that the plan, profile or document, a copy of which, or of any portion of which, is certified by him, is deposited in his office, and shall state the time when it was so deposited, and that he has carefully compared the copy certified with the document on file, and that the same is a true copy of the original.

Documents
deposited
with regis-
trar of
deeds to be
prima facie
evidence.

(5) A copy of any plan, profile, book of reference, certified copy thereof, or other document, relating to the location or construction of any railway, and deposited, under the provisions of this Act, with the registrar of deeds of any district or county through which the railway passes, certified by such registrar, in the manner hereinafter required, to be a true copy, shall be *prima facie* evidence of the original so deposited, that such original was so deposited at the time certified thereon, and that the same was signed, certified, attested or otherwise executed by the persons by whom and in the manner in which such original purports to be signed, certified, attested or executed, as shown or appearing by such certified copy; and, in the case of a plan, that such plan is prepared according to a scale and in manner and form sanctioned by the Board. 3-4 Geo. V. c. 36, s. 75.

76.—(1) A plan and profile of the completed railway, or of any part thereof, which is completed and in operation, and of the land taken or obtained for the use thereof, shall, within six months after completion of the undertaking, or within six months after beginning to operate any such completed part, as the case may be, or within such extended or renewed period as the Board at any time directs, be made and filed with the Board.

Filing
plan and
profile of
completed
line.

With Board.

(2) Plans of the parts of such railway so completed or in operation located in different districts and counties, prepared on such a scale and in such manner and form, and signed or authenticated in such manner as the Board may from time to time, by general regulation or in any particular case, sanction or require, shall be filed in the registry offices for the counties or districts in which such parts are respectively situate. 3-4 Geo. V. c. 36, s. 76.

In registry
offices.

77.—(1) All plans and profiles required by law to be deposited by the company with the Board shall be drawn to such scale, with such detail, upon such materials, and shall be of such character as the Board may, either by general regulation or in any particular case, sanction or require.

Plans and
profiles, how
prepared.

(2) All such plans and profiles shall be certified and signed by the president or vice-president or general manager and also by the engineer of the company.

Certification.

(3) Any book of reference required to be so deposited shall be prepared to the satisfaction of the Board.

Book of
reference.

(4) Unless and until such plan, profile and book of reference are so made satisfactory to the Board the Board may refuse to sanction the same, or to allow the same to be deposited with the Board. 3-4 Geo. V. c. 36, s. 77.

Board may
refuse
sanction.

78. In addition to such plans, profiles and books of reference the company shall, with all reasonable expedition, prepare and deposit with the Board any other or further plans, profiles, or books of reference of any portion of the railway, or of any siding, station or works thereof, which the Board may from time to time order or require. 3-4 Geo. V. c. 36, s. 78.

Further
plans, etc.,
as Board
requires.

79.—(1) If any deviation, change or alteration is required by the company to be made in the railway, or any portion thereof, as already constructed or as merely located and sanctioned, a plan, profile and book of reference of the portion of such railway proposed to be changed, showing the deviation, change or alteration proposed to be made, shall, in like manner as hereinbefore provided with respect to the original plan, profile and book of reference, be submitted for the approval of the Board, and may be sanctioned by the Board.

Deviations,
changes or
alterations.

Plan, pro-
file, etc.

Sanction
of Board.

Deposit.

(2) The plan, profile and book of reference of the portion of such railway so proposed to be changed shall, when so sanctioned, be deposited and dealt with as hereinbefore provided with respect to such original plan, profile and book of reference.

Company may carry out changes.

(3) The company may thereupon make such deviation, change, or alteration, and all the provisions of this Act shall apply to the portion of such line of railway so at any time changed or proposed to be changed in the same manner as they apply to the original line.

Board may dispense with submission of material.

(4) The Board may, either by general regulation or in any particular case, exempt the company from submitting the plan, profile and book of reference, as in this section provided, where such deviation, change, or alteration, is made, or to be made, for the purpose of lessening a curve, reducing a gradient, or otherwise benefiting the railway, or for any other purpose of public advantage as may seem to the Board expedient, if such deviation, change, or alteration does not exceed three hundred feet from the centre line of the railway located or constructed in accordance with the plans, profiles and books of reference deposited with the Board under this Act.

Termini to be observed.

(5) Nothing in this section shall be taken to authorize any extension of the railway beyond the termini mentioned in the special Act. 3-4 Geo. V. c. 36, s. 79.

Commencement of works.

80. The company shall not commence the construction of the railway, or any section or portion thereof, until the plan, profile and book of reference has been submitted to and sanctioned by the Board as hereinbefore provided, nor until such plan, profile and book of reference so sanctioned has been deposited with the Board, and duly certified copies thereof with the registrars of deeds, in accordance with the provisions of this Act.

Changes.

(2) The company shall not make any change, alteration or deviation in the railway, or any portion thereof, until the provisions of the last preceding section are fully complied with. 3-4 Geo. V. c. 36, s. 80.

ACQUISITION OF LAND.

Quantity allowed without consent of owners.

Extent of land which may be taken.

81. The land which may be taken without the consent of the owner shall not exceed

For right of way.

(a) for the right of way one hundred feet in breadth, except in places where the rail level is or is proposed to be more than five feet above or below the surface of the adjacent land, when such additional width may be taken as shall suffice to accommodate the slope and side ditches;

- (b) for stations, depots and yards, with the freight sheds, warehouses, wharfs, elevators and other structures for the accommodation of traffic incidental thereto, one mile in length by five hundred feet in breadth, including the width of the right of way. 3-4 Geo. V. c. 36, s. 81.

Conveyances by fiduciary owners.

82.—(1) All tenants in tail or for life, guardians, committees of lunatics, or curators, executors, administrators, trustees and all other persons whomsoever as well for and on behalf of themselves, their heirs and successors, as also for and on behalf of those whom they represent, whether infants, issue unborn, lunatics, idiots, or other persons seized, possessed of or interested in any land, may contract for, sell and convey to the company all or any part thereof.

(2) When such persons have no right in law to sell or convey the rights of property in the said land, they may obtain from a judge, after due notice to the persons interested, the right to sell the said land.

(3) The judge shall make such orders as are necessary to secure the investment of the purchase money in such a manner as he deems proper to secure the interests of the owner of the land.

(4) The powers, by subsections 1 and 2 conferred upon

(a) rectors in possession of glebe lands,

(b) ecclesiastical and other corporations,

(c) trustees of land for church or school purposes,

(d) executors appointed by wills under which they are not invested with any power over the real property of the testator, and

(e) administrators of persons dying intestate, but at their death seized of real property

shall only extend and be exercised with respect to any of such land actually required for the use and occupation of the company. 3-4 Geo. V. c. 36, s. 82.

83.—(1) Any contract, agreement, sale, conveyance or assurance made under the authority of the next preceding section shall be valid and effectual in law to all intents and purposes whatsoever, and any conveyance so authorized shall vest in the company receiving the same, the fee simple in the land therein described, freed and discharged from all trusts, restrictions and limitations whatsoever.

(2) The person so conveying is hereby relieved from liability for what he does by virtue of or in pursuance of this Act. 3-4 Geo. V. c. 36, s. 83.

Disposition
of purchase
money.

84. The company shall not be responsible for the disposition of any purchase money for land taken by it for its purposes if paid to the owner of the land or into court for his benefit. 3-4 Geo. V. c. 36, s. 84.

Effect of
contracts
made before
deposit of
map.

85.—(1) Any contract or agreement made by any person authorized by this Act to convey land either before the deposit of the plan, profile and book of reference, or before the setting out and ascertaining of the land required for the railway, shall, if duly registered in the proper registry office, be binding at the price agreed upon if the land is afterwards set out and ascertained within one year from the date of the contract or agreement;

Possession
and purchase
money.

(2) Possession of the land may be taken, and the purchase money may be dealt with, as if it had been fixed by an award of arbitrators as hereinafter provided, and the contract or agreement shall be in the place of an award. 3-4 Geo. V. c. 36, s. 85.

Rental
when parties
cannot sell.

86.—(1) If, in any case not hereinbefore provided for, any person interested in any land so set out and ascertained is not authorized by law to sell or alienate the same he may agree upon a fixed annual rent as an equivalent, and not upon a principal sum, to be paid therefor.

How
fixed.

(2) If the amount of the rent is not fixed by agreement it shall be fixed and all proceedings shall be regulated in the manner herein prescribed.

How charged
in railway
accounts.

(3) Such annual rent and every other annual rent agreed upon or ascertained and to be paid for the purchase of any land, or any part of the purchase money of any land which the vendor agrees to leave unpaid shall, upon the deed creating such charge or liability being duly registered in the registry office of the proper county, district or registration division, be chargeable as part of the working expenditure of the railway. 3-4 Geo. V. c. 36, s. 86.

Purchase of Additional Land.

When more
ample space
required.

87.—(1) Should the company require, at any point on the railway, more ample space than it possesses or may take under section 81, for the convenient accommodation of the public, for the traffic on its railway, for protection against snowdrifts, for the diversion of a highway, for the substitution of one highway for another, or for the construction or taking of any works or measures ordered by the Board under any of the provisions of this Act or the special Act, or to secure the efficient construction, maintenance or operation of the railway, it may apply to the Board for authority to take the same for such purposes without the consent of the owner.

(2) The company shall give ten days' notice of such application to the owner or possessor of such land, and shall, upon such application, furnish to the Board copies of such notices with affidavits of the service thereof. Procedure.

(3) The company, upon such application, shall also furnish to the Board in duplicate Material upon application.

(a) a plan, profile and book of reference of the portion of the railway affected, showing the additional land required, and certified as hereinbefore provided with respect to plans and profiles required to be deposited by the company with the Board; Plan, etc.

(b) an application, in writing, for authority to take such land, signed and sworn to by the president, vice-president, general manager or engineer of the company, referring to the plan, profile and book of reference, specifying definitely and in detail the purposes for which each portion of the land is required, and the necessity for the same, and showing that no other land suitable for such purposes can be acquired at such place on reasonable terms and with less injury to private rights. Particulars to be specified.

(4) After the time stated in such notices, and the hearing of such parties interested as may appear, the Board may, in its discretion and upon such terms and conditions as the Board deems expedient, authorize in writing the taking for such purposes of the whole or any portion of the land applied for. Authority from Board.

(5) Such authority shall be executed in duplicate, and one of such duplicates shall be filed, with the plan, profile, book of reference, application and notices, with the Board; and the other, with the duplicate plan, profile, book of reference and application, shall be delivered to the company. Deposit with Board.

(6) Such duplicate authority, plan, profile, book of reference and application, or copies thereof certified as such by the secretary, shall be deposited with the registrars of deeds of the counties or districts, respectively, in which such lands are situate. In registry offices.

(7) All the provisions of this Act applicable to the taking of lands without the consent of the owner for the right of way or main line of the railway shall apply to the land authorized under this section to be taken, except the provisions relating to the sanction by the Board of the plan, profile and book of reference of the railway, and the deposit thereof, when so sanctioned, with the Board and with registrars of deeds. 3-4 Geo. V. c. 36, s. 87. Provisions of this Act which apply.

Negotiations with owner for compensation and damages.

After one month's notice of deposit of map, etc., application to the owner of lands.

88.—(1) After the expiration of ten days from the deposit of the plan, profile and book of reference in the office of the registrar of deeds, and after notice thereof in at least one newspaper, if there is any, published in each of the counties through which the railway is intended to pass, application may be made to the owners of lands or to persons empowered to convey land or interested in land which may be taken or which may suffer damage from the taking of materials or the exercise of any of the powers granted for the railway; and thereupon such agreements and contracts as seem expedient to both parties may be made with such persons touching the land, or the compensation to be paid for the same, or for the damages, or as to the mode in which such compensation shall be ascertained, as may seem expedient to both parties.

Settlement of questions.

(2) In case of disagreement between the parties or any of them all questions which arise shall be settled as hereinafter provided. 3-4 Geo. V. c. 36, s. 88.

Effect of depositing plan.

Deposit, etc., to be general notice.

89.—(1) The deposit of a plan, profile and book of reference, and the notice of such deposit, shall be deemed a general notice to all persons of the land which will be required for the railway and works.

Effect on question of damages.

(2) The date of such deposit shall be the date with reference to which such compensation or damages shall be ascertained; but if the company does not actually acquire the land within one year from the date of such deposit then the date of the acquisition shall be the date with reference to which such compensation or damages shall be ascertained. 3-4 Geo. V. c. 36, s. 89.

Notice to owner.

Notice to opposite party.

90.—(1) A notice shall be served upon the owner which shall contain

- (a) a description of the land to be taken, or of the powers intended to be exercised with regard to any land therein described;
- (b) a declaration of readiness to pay a certain sum or rent, as the case may be, as compensation for such land or for such damages; and
- (c) the name of a person to be appointed as the arbitrator of the company if the offer is not accepted.

Certificate of O.L.S. to accompany notice.

(2) The notice shall be accompanied by the certificate of an Ontario Land Surveyor not interested in the matter and not being the arbitrator named in the notice:—

(a) that the land, if the notice relates to the taking of land, shown on the plan, is required for the railway, or is within the limit of deviation allowed by this Act;

(b) that he knows the land, or the amount of damage likely to arise from the exercise of the powers; and

(c) that the sum so offered is, in his opinion, a fair compensation for the land, and for the damages.

(3) If the owner is absent from the county or district in which the land lies, or is unknown, then upon application to a Judge of the County or District Court of the county or district in which the land lies, accompanied by such certificate, and by an affidavit of some officer of the company that such owner is so absent, or that, after diligent inquiry, the owner on whom the notice ought to be served cannot be ascertained, the judge shall order the notice, but without such certificate, to be published three times in the course of one month in some newspaper published in the county or district.

If the party is absent or unknown.

(4) Where the judge is interested in the land, a Judge of the Supreme Court may, on application of the company, exercise all the powers given to a judge of a county or district court by this section.

Provision when the County Judge is interested.

Appointment of sole arbitrator.

(5) If, within ten days after the service of the notice or within one month after the first publication thereof, the person served does not notify the company of his acceptance of the sum offered by it, or notify it of the name of a person whom he appoints as arbitrator, the judge shall, on the application of the company, six days' notice of which shall be given to the owner, appoint a person to be sole arbitrator for determining the compensation or damages to be paid.

Failure to accept the company's offer, or appoint arbitrator.

Appointment of arbitrators, and their duties.

(6) The judge shall, at the request of either party on such application, appoint three arbitrators to determine such compensation or damages, one of whom may be named by each party.

Appointment by judge of three arbitrators.

(7) If the owner within the time mentioned in sub-section 5, notifies the company of the name of his arbitrator, the two arbitrators shall jointly appoint a third, or if they cannot agree upon a third, the judge shall, on the application of the owner or of the company, previous notice of at least one clear day having been given to the other party, appoint a third arbitrator.

Appointment of arbitrator by opposite party.

Third arbitrator.

Notice of claim by owner after entry.

Proceedings
to deter-
mine com-
pensation.

(8) If land has been entered on and taken by the company, with or without the license of the person in possession thereof and without any agreement as to the compensation to be paid therefor, or if the land, though not taken, is injuriously affected by or through the construction of the railway, any owner or person interested in such land may commence proceedings to ascertain the compensation to which he is entitled in respect of the land so taken or injuriously affected, by giving to the company notice in writing of the name of a person to be appointed as his arbitrator, the description of the land taken or injuriously affected, and the amount of compensation or damages claimed, and thereupon like proceedings shall be taken to ascertain such compensation or damages as are prescribed where the company commences proceedings.

Stating
amount
found pay-
able in
award.

(9) The arbitrators, besides awarding to the owner the amount which they find to be the value of the land, shall state what they find to be the total amount to be paid to compensate the owner, or for damages.

Duties of
arbitrators.

(10) The arbitrators, or any two of them, or the sole arbitrator, being sworn before a justice of the peace or a commissioner empowered to take affidavits, faithfully and impartially to perform the duties of their office, shall proceed to ascertain the compensation in such a way as they, or he, or a majority of them, deem best; and the majority of the arbitrators, at the first meeting after their appointment, or the sole arbitrator, shall fix a day on or before which the award shall be made, and may from time to time, with the consent of all parties, but not otherwise, extend such time; but no award shall be made or any official act done by the majority, except at a meeting held at a time and place of which the other arbitrator has had at least one clear day's notice, or to which some meeting at which the third arbitrator was present had been adjourned; and no notice to either of the parties shall be necessary, but each party shall be held sufficiently notified through the arbitrator appointed by him, or whose appointment he required.

Notes of
evidence.

(11).—(a) The arbitrators or the sole arbitrator shall take down in writing the evidence brought before them or him, unless either party requires that it be taken by a stenographer; in which case a stenographer shall be named by the arbitrators or arbitrator, unless the parties agree upon one.

Steno-
grapher.

(b) The stenographer shall be sworn before the arbitrators, or before any one of them, before entering upon his duties.

His
expenses.

(c) The expense of such stenographer, if not determined by agreement between the parties, shall be taxed by the court or a judge thereof, and shall, in any case, form part of the costs of the arbitration.

(d) After making the award the arbitrators, or the sole arbitrator shall forthwith deliver or transmit by registered letter, at the request of either party in writing, the depositions, together with the exhibits referred to therein, and all papers connected with the reference except the award, to the Central Office at Osgoode Hall.

(12).—(a) If any arbitrator dies before the award is made, or is disqualified, or refuses or fails to act within a reasonable time, an arbitrator may be appointed in his stead.

All papers except award to be filed in court.

Death of arbitrator or failure to act.

(b) If such arbitrator was appointed by one of the parties, or by the judge on his nomination, he shall have the right to appoint the arbitrator in his stead.

(c) If such arbitrator was appointed by the judge, the arbitrator in his stead may be appointed by the judge, on the application of either party, on six days' notice to the other.

(d) If such arbitrator was appointed by the two arbitrators appointed by the parties, the arbitrator in his stead may be appointed by the remaining arbitrators.

(e) In a case not provided for by the foregoing provisions, the arbitrator may be appointed by the judge, on the application of either party, on six days' notice to the other.

(f) It shall not be necessary in any such case that the proceedings shall be recommended or repeated.

(13).—(a) Where the notice given improperly describes the lands or materials intended to be taken, or where the company decides not to take the lands or materials mentioned in the notice, it may abandon the notice and all proceedings thereunder, but shall be liable to the person notified for all damages or costs incurred by him in consequence of such notice and abandonment, which costs shall be taxed in the same manner as costs after an award.

Abandonment of proceedings.

(b) The company may, notwithstanding the abandonment of any former notice, give to the same or any other person notice for other lands or materials, or for lands or materials otherwise described.

(14) No award shall be invalidated by reason of any want of form or other technical objection, if the requirements of this Act have been substantially complied with, and if the award states clearly the sum awarded, and the land or other property, right or privilege for which such sum is to be the compensation; nor shall it be necessary that the person to whom the sum is to be paid be named in the award.

Awards not voided for want of form.

Appeals.

(15) Any party to the arbitration, may within one month after receiving a written notice from the arbitrators of the making of the award, appeal therefrom upon any question of law or fact to the Supreme Court, and upon the hearing of

Appeal to High Court from award on question of law or fact.

the appeal the court shall decide any question of fact upon the evidence taken before the arbitrators as in a case of original jurisdiction.

Procedure
on appeal.

Rev. Stat. c. 65.

Rev. Stat. c. 56.

(16) Upon such appeal the practice and proceedings shall be as nearly as may be the same as upon an appeal from an award under *The Arbitration Act*, subject to any Rules of Court made under that Act or under *The Judicature Act*.

Existing
practice
not affected.

(17) The right of appeal hereby given shall not affect the existing law or practice as to setting aside such awards.

Company
taking pos-
session to
take up
award on
notice.

(18) Where the company has taken possession of the land prior to the making of the award it shall, within seven days after receiving a written notice from the arbitrators of the making of the award, take up the same and deliver to the owner a copy thereof.

Company's right to possession.

Possession
may be
taken on
payment or
tender,
etc., of sum
awarded.

(19) Upon payment or legal tender of the compensation or annual rent so awarded or agreed upon to the person entitled to receive the same, or upon the payment into court of the amount of such compensation in the manner herein-after mentioned, the award or agreement shall vest in the company the power forthwith to take possession of the land, or to exercise the right, or to do the thing for which such compensation or annual rent has been awarded or agreed upon.

Warrant of
possession.

(20) If any resistance or forcible opposition is made to the exercise by the company of any such power, the judge of the county or district court of the county or district in which the land lies, or a Judge of the Supreme Court shall, on proof to his satisfaction of such award or agreement, issue his warrant to the sheriff of the county or district, to put the company in possession and to put down such resistance or opposition.

Powers of
sheriff.

(21) The sheriff shall, in the execution of such warrant, take with him sufficient assistance for such purpose, and shall put down such resistance or opposition and put the company into possession.

When
warrant
of posses-
sion may
issue be-
fore award.

(22) The warrant shall also be granted without the award or agreement, on affidavit to the satisfaction of the judge that the immediate possession of the land or of the power to do the thing mentioned in the notice, is necessary to carry on some part of the railway with which the company is ready forthwith to proceed.

Procedure
upon appli-
cation for
such
warrant.

(23) The judge shall not grant any warrant under the next preceding subsection, unless

Notice.

(a) ten days' previous notice of the time and place when and where the application for such warrant is to be made has been served upon the owner of

the land or the person empowered to convey the land or interested in the land sought to be taken or which may suffer damage from the taking of materials sought to be taken, or the exercise of the powers sought to be exercised, or the doing of the thing sought to be done, by the company; and

- (b) the company gives security to his satisfaction by payment into court of a sum in his estimation sufficient to cover the probable compensation and costs of the arbitration, and not less than double the amount mentioned in the notice served under subsection 1 of this section.

Deposit of compensation.

(24) The costs of any such application shall be in the discretion of the judge, and no part of such deposit or of any interest thereon shall be repaid, or paid to such company, or paid to such owner or person, without an order from the judge, which he may make in accordance with the terms of the award.

Costs of application.

(25) The compensation for any land which may be taken without the consent of the owner shall stand in the stead of such land; and any claim to or incumbrance upon the land, or any portion thereof, shall, as against the company, be converted into a claim to the compensation, or to a like proportion thereof, and the company shall be responsible accordingly whenever it has paid the compensation, or any part thereof, to a person not entitled to receive the same, saving always its recourse against such person.

When compensation to stand in the place of the land.

(26) When

- (a) the company has reason to fear any claim, mortgage or incumbrance; or
- (b) any person to whom the compensation or annual rent, or any part thereof, is payable, refuses to execute the proper conveyance; or
- (c) the person entitled to claim the compensation or the annual rent cannot be found, or is unknown to the company; or
- (d) for any other reason, the company deems it advisable,

Payment of compensation into court in some cases.

the company may, by leave of a Judge of the Supreme Court, pay such compensation or annual rent into court, with the interest thereon for six months, and with such further sum if such judge so directs, as may, in his opinion, be sufficient to cover the expenses of advertising and the costs that may be incurred in consequence of such payment into court, and may deliver to the Accountant of the Supreme Court a copy of the conveyance, or of the award or agreement if there is no conveyance.

Title.

(27) Such conveyance, award or agreement shall thereafter be deemed to be the title of the company to the land therein mentioned.

Notice and publication.

(28) A notice of such payment and delivery, in such form and for such time as a Judge of the Supreme Court appoints, shall be inserted in a newspaper published in the county or district in which the land is situate.

Contents of notice.

(29) Such notice shall state that the conveyance, agreement or award constituting the title of the company is obtained under the authority of this Act, and shall call upon all persons claiming an interest in or entitled to the land, or to any part thereof, to file their claims to the compensation or any part thereof.

Adjudication on claims.

(30) All such claims filed shall be received and adjudicated upon by the court, and the adjudication shall bar all claims to the land, or any part thereof, including dower as well as all mortgages and incumbrances upon the same.

Adjustment of compensation.

(31) The court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all persons interested as may be proper.

By whom cost to be paid.

(32) The costs of the proceedings in whole or in part, including the proper allowances to witnesses, shall be paid by the company or by any other person as the court may order.

When rebate of interest to be ordered.

(33) If the order for distribution, payment or investment is obtained within less than six months from the payment of the compensation, the court shall direct a proportionate part of the interest to be returned to the company;

Interest as compensation for delay, etc.

(34) If from any error, fault or neglect of the company an order is not obtained until after the six months, the court shall order the company to pay into court, as part of the compensation, the interest for such further period as the court deems just. 3-4 Geo. V. c. 36, s. 90.

Compensation to Owners of Lands Adjoining Highways.

Compensation to owners of lands adjoining highway.

91.—(1) Where a railway constructs its tracks along one side of a highway or operates over a highway or railway or street railway crossing by means of a bridge, or underneath a highway or railway or street railway crossing by means of a sub-way or tunnel, and, in the construction of the approaches to such bridge or tunnel, raises or depresses part of a highway the owner of any land adjoining the portion of the highway upon the side thereof upon which the tracks are so constructed or upon or along which the said bridge or sub-way or tunnel or approaches thereto are constructed shall, if by reason of such construction his land or the business carried on upon such land is thereby injured or in any way

depreciated in value, be entitled to receive compensation therefor from the company.

(2) The proceedings to obtain such compensation and to determine the amount thereof shall, so far as applicable, be the same as that provided in this Act in the sections respecting the taking of land without the consent of the owner. Procedure.

(3) Compensation for injury to, or depreciation of the value of any such business or land may be awarded by the arbitrators, if, in their judgment, any such injury or depreciation is caused by the existence of the railway notwithstanding that the grade of the highway may not have been changed or altered. Compensation where grade of highway unaltered.

(4) Not more than one award of damages shall be made under this section in respect of the same land or business. Only one award.

(5) This section shall not apply to such portions of any railway as are constructed on or before the 1st day of June, 1906, or which may be constructed under agreements existing at that date. 3-4 Geo. V. c. 36, s. 91. Saving.

Obtaining Stone, Gravel or Other Material.

92.—(1) Whenever

(a) any stone, gravel, earth, sand, water or other material is required for the construction, maintenance or operation of the railway, or any part thereof; or Obtaining materials for construction or operation.

(b) such materials so required are situate, or have been brought to a place, at a distance from the line of railway and the company desires to lay down the necessary tracks, spurs or branch lines, water pipes or conduits; over or through any lands intervening between the railway and the land on which such materials are situate or to which they have been brought, Transport. Tracks or conduits.

the company may, if it cannot agree with the owner of the land for the purchase thereof, cause an Ontario land surveyor to make a plan and description of the property or right of way, and shall serve upon each of the owners or occupiers of the land affected a copy of such plan and description, or of so much thereof as relates to the land owned or occupied by them respectively, duly certified by such surveyor or engineer. Plan and description.

(2) All the provisions of this Act shall, in so far as applicable, apply, and the powers thereby granted may be used and exercised to obtain the materials so required, or the right of way to the same, irrespective of the distance thereof; but the company shall not be required to submit any such plan for the sanction of the Board. Provisions of this Act which apply.

Title may
be acquired.

(3) The company may, at its discretion, acquire the land from which such materials are taken, or upon which the right of way thereto is located, for a term of years or permanently.

Arbitration.

(4) The notice of arbitration, if arbitration is resorted to, shall state the extent of the privileges and title required.

Tracks not
to be used
for other
purposes.

(5) The tracks, spurs or branch lines constructed or laid by the company under this section shall not be used for any purpose other than in this section mentioned, except by leave of the Board and subject to such terms and conditions as the Board may impose. 3-4 Geo. V. c. 36, s. 92.

Branch Lines and Switches and Sidings to Industries.

Power to
construct.

93.—(1) The company may, for the purpose of its undertaking, construct, maintain and operate branch lines, not exceeding in any one case six miles in length, from the main line of the railway or from any branch thereof.

Procedure.

(2) Before commencing to construct any such branch line the company shall

Plans, etc.

(a) make a plan, profile and book of reference, showing the proposed location of the branch line, with the particulars hereinbefore required as to plans, profiles and books of reference of the main line, and deposit the same, or such parts thereof as relate to each county or district through which the branch line is to pass, in the offices of the registrars of deeds for such counties or districts;

Notice of
application
to Board.

(b) upon such deposit, give four weeks' public notice of its intention to apply to the Board under this section, in some newspaper published in each county or district through which the branch line is to pass, or if there is no newspaper published in such county or district, then for the same period in the *Ontario Gazette*; but the Board may dispense with or shorten the time of such notice in any case in which it deems proper to do so; and

Material to
be sub-
mitted.

(c) after the expiration of the notice submit to the Board, upon such application, a duplicate of the plan, profile and book of reference so deposited.

Board may
authorize
branch line.

(3) The Board, if satisfied that the branch line is necessary in the public interest or for the purpose of giving increased facilities to business, and if satisfied with the location of such branch line and the grades and curves as shown on such plan, profile and book of reference, may, in writing, authorize the construction of the branch line in accordance with such plan, profile and book of reference or subject to such changes in location, grades or curves as the Board may direct.

(4) Such authority shall limit the time, not exceeding Time for construction. two years, within which the company shall construct and complete such branch line.

(5) There shall be deposited with the Board such authority Deposit of material with Board. and the duplicate of such plan, profile and book of reference, together with such papers and plans as are necessary to show and explain any changes directed by the Board, under the provisions of this section.

(6) The company shall deposit in the registry offices of And in registry offices. the counties or districts through which the branch line is to pass copies, certified as such by the secretary, of the authority, and of the papers and plans showing the changes directed by the Board.

(7) No branch line shall be No extension allowed.
 (a) extended under the foregoing provisions for the construction of branch lines; or

(b) constructed so as to form, in effect, an extension of the railway beyond the termini mentioned in the special Act.

(8) Upon compliance with the requirements of the next Provisions applicable. seven preceding subsections all the other provisions of this Act, except those relating to the sanction by the Board of the plan, profile and book of reference of the railway and the deposit thereof with the Board and in the offices of the registrars of deeds for the counties or districts through which the railway is to pass, shall, in so far as applicable, apply to the branch lines so authorized and to the land to be taken for them. 3-4 Geo. V. c. 36, s. 93.

94.—(1) Where any industry or business is established or intended to be established within six miles of the railway, and the owner of such industry or business, or the person intending to establish the same, is desirous of obtaining railway facilities in connection therewith, but cannot agree with the company as to the construction and operation of a spur or branch line from the railway thereto, the Board may, on the application of such owner or person, and upon being satisfied of the necessity for such spur or branch line in the interests of trade, order the company to construct, maintain and operate such spur or branch line, and may direct such owner or person to deposit in a chartered bank such sum as is by the Board deemed sufficient or necessary to defray all expenses of constructing and completing the spur or branch line in good working order, including the cost of the right of way, incidental expenses and damages. Spur or branch line required by owner of any industry.

(2) The amount so deposited shall, from time to time, Payment to the company. be paid to the company, upon the order of the Board, as the work progresses.

Repayment
to owner
by rebate
on tolls.

(3) The aggregate amount so paid by the applicant in the construction and completion of the spur or branch line shall be repaid or refunded to him by the company by way of rebate, to be determined and fixed by the Board, out of or in proportion to the tolls charged by the company in respect of the carriage of traffic for the applicant over the spur or branch line.

Lien to
owner
meantime.

(4) Until so repaid or refunded the applicant shall have a special lien for such amount upon the spur or branch line, to be reimbursed by such rebate.

Discharge
of lien.

(5) Upon repayment by the company to such applicant of all payments made by him upon such construction and completion, the spur or branch line, right of way, and equipment shall become the absolute property of the company free from any such lien.

Operation
of branch
to be
regulated
by Board.

(6) The operation and maintenance of the said spur or branch line by the company shall be subject to and in accordance with such order as the Board may make with respect thereto having due regard to the requirements of the traffic thereon, and to the safety of the public and of the employees of the company.

Construction
on applica-
tion of
municipal
corporation.

(7) A municipal corporation may apply for the construction and maintenance of a spur or branch line for providing facilities in connection with a railway for the purpose of any industry, business or market established within six miles of the railway, and the provisions of the foregoing subsections shall apply as if the corporation were the person by whom the industry or business was established.

Cost in
such case.

(8) Where the application is made by a municipal corporation, the Board may require the corporation to pay to the company the cost of construction and completion of the spur or branch line, or may require part of it to be paid by the corporation and part of it to be repaid or refunded by way of rebate so provided by subsection 3.

Provisions
applicable.

(9) All the provisions of this Act respecting the construction of spur or branch lines shall apply to any spur or branch line constructed under this section. 3-4 Geo. V. c. 36, s. 94.

Purchase of more land than necessary.

When com-
pany may
purchase.

95.—(1) Whenever the company can purchase a larger quantity of land from any particular owner at a more reasonable price, on the average, or on more advantageous terms than it could obtain the portion thereof which it may take from him without his consent it may purchase such larger quantity.

Sale of
surplus land.

(2) The company may sell and dispose of any part of the land so purchased which may be unnecessary for the undertaking. 3-4 Geo. V. c. 36, s. 95.

Snow Fences, Etc.

96.—(1) Every company may, on and after the first day of November in each year, enter into and upon any lands of His Majesty, or of any person, lying along the route or line of the railway, and erect and maintain snow fences thereon, subject to the payment of such land damages, if any, actually suffered and thereafter established, in the manner provided by law with respect to such railway. Erection of snow fences. Compensation.

(2) Every snow fence so erected shall be removed on or before the first day of April then next following. Removal. 3-4 Geo. V. c. 36, s. 96.

Use of Adjacent Lands during Construction.

97.—(1) The company, either for the purpose of constructing or repairing its railway, or for the purpose of carrying out the requirements of the Board, or in the exercise of the powers conferred upon it by the Board, may enter upon any land which is not more than six hundred feet distant from the centre of the located line of the railway, and may occupy such land as long as is necessary for such purposes; and all the provisions of law at any time applicable to the taking of land by the company, and its valuation, and the compensation therefor, shall apply to the case of any land so required. Use of adjacent lands.

(2) Before entering upon any land for such purposes the company shall, if the consent of the owner is not obtained, pay into the Supreme Court If owner does not consent.

(a) such sum as is, after two clear days' notice to the owner of the land, or to the person empowered to convey the same, or interested therein, fixed by a judge of such court; and, Sum to be deposited.

(b) interest for six months upon the sum so fixed. Interest.

(3) Such deposit shall be retained to answer any compensation which may be awarded the person entitled thereto, and may, upon order of a judge of such court, be paid out to such person in satisfaction *pro tanto* of such award, and the surplus, if any thereafter remaining, shall, by order of the judge, be repaid to the company. As security for compensation.

(4) Any deficiency in such deposit to satisfy such award shall be forthwith paid by the company to the person entitled to compensation under such award. 3-4 Geo. V. c. 36, s. 97. Deficiency to be paid.

CONSTRUCTION AND EQUIPMENT.

Gauge.

98. The tracks of every railway, the construction of which is hereafter commenced, shall be of the standard gauge Gauge.
21 s.—II

of four feet eight and one-half inches, unless the Board upon the application of the company otherwise orders. 3-4 Geo. V. c. 36, s. 98.

Equipment and Appliances for Trains.

Modern and efficient.

99.—(1) Every company shall provide and cause to be used on all trains modern and efficient apparatus, appliances and means

Communication.

(a) to provide immediate communication between the conductor, while in any car of any passenger train, and the engine driver or motorman;

Brakes.

(b) to check at will the speed of the train, and bring the same safely to a standstill, as quickly as possible, and, except under circumstances of sudden danger or emergency, without causing undue discomfort to passengers, if any, on the train; and

Couplers.

(c) to securely couple and connect the cars composing the train, and to attach the engine to such train, with couplers which couple automatically by impact and which can be uncoupled without the necessity of men going in between the ends of the cars.

Drive wheel brake.

(2) Such apparatus, appliances and means for the checking of speed or the stopping of any train shall include a power drive wheel brake and appliances for operating the train brake system upon the locomotive.

Power or train brakes.

(3) There shall also be such a number of cars in every train equipped with power or train brakes that the engineer or motorman on the locomotive drawing such train can control its speed, or bring the train to a stop in the quickest and best manner possible, without requiring brakemen to use the common hand brake for that purpose.

Continuous, instantaneous action.

(4) Upon all trains carrying passengers such system of brakes shall be continuous, instantaneous in action, and capable of being applied at will by the engine driver, motorman or any brakeman, and the brakes must be self-applying in the event of any failure in the continuity of their action.

Box freight cars.

(5) All box freight cars of the company shall, for the security of railway employees, be equipped with

Outside ladders.

(a) outside ladders, on two of the diagonally opposite ends and sides of each car, projecting below the frame of the car, with one step or rung of each ladder below the frame, the ladders being placed close to the ends and sides to which they are attached; and

- (b) hand grips placed anglewise over the ladders of each box car and so arranged as to assist persons in climbing on the roof by means of the ladders: Hand grips.

and if there is at any time any other improved side attachment which, in the opinion of the Board, is better calculated to promote the safety of the train hands the Board may require any of such cars, not already fitted with the side attachments by this section required, to be fitted with such improved attachment. Other improvements.

(6) The running-board on the roof of each box freight car of the company shall, at all times, be of sufficient thickness and strength, and not less than thirty inches in width, and shall, with proper and safe supports, extend the whole length of the car and beyond each end thereof to a point not more than two inches less than that to which the dead-wood or bumpers at each end of such car likewise extend. Running boards.

(7) Every company shall adopt and use upon all its rolling stock such height of draw-bars as the Board determines, in accordance with any standard from time to time adopted by competent railway authorities. Height of draw-bars.

(8) The Board may upon good cause shown, by general regulation, or in any particular case, from time to time grant delay for complying with the provisions of this section. Delay may be allowed for compliance.

(9) The Board may, subject to the requirements of the preceding provisions of this section, upon application, order that any apparatus or appliance specified in such order shall, when used upon the train in the manner and under circumstances in such order specified, be deemed sufficient compliance with such provisions, but the Board shall not by such order allow any exception to or modification of the requirements of this section. Board may determine what equipment sufficient.

(10) The oil cups or other appliances used for oiling the valves of every locomotive in use upon any railway shall be such that no employee shall be required to go outside the cab of the locomotive, while the same is in motion, for the purpose of oiling such valves. Oiling.

(11) Every passenger, baggage, mail and express car, which is owned or regularly used on any railway in Ontario, in which heating apparatus is placed, shall be provided with such safeguards against fire as the Board shall in writing from time to time approve. Safeguards against fire in cars.

(12) Every company which fails to comply with any of the provisions of this section shall forfeit to His Majesty a sum not exceeding \$200 for every day during which such default continues, and shall as well be liable to pay to all such persons as are injured by reason of the non-compliance with these provisions, or to their representatives, such damages as they are legally entitled to notwithstanding any agreement to the contrary. Penalty for non-compliance.
Damages.
Agreements to contrary invalid.
3-4 Geo. V. c. 36, s. 99.

Locomotives
to have
bells or
whistles.

100. Every locomotive, engine and electric locomotive shall be furnished with a bell of at least thirty pounds weight or with a steam or air whistle. 3-4 Geo. V. c. 36, s. 100.

Gongs and
whistles.

101. Every car which contains a motor or which runs at the head of a train shall be furnished with a gong, to be approved by regulation of the Board, or with an air whistle. 3-4 Geo. V. c. 36, s. 101.

Protection
of conduc-
tors and
motormen.

102.—(1) Every car in use for the transportation of passengers in November, December, January, February, March and April in each year, which while in motion requires the constant care or service of a motorman upon the platforms of the car or upon one of them, shall have its platforms so enclosed as to protect the motorman from exposure to wind and weather in such manner as the Board shall approve.

Where no
rear vesti-
bules.

(2) Every company operating its cars without rear end vestibules shall allow the conductors employed on such cars to stand inside the cars during such period so far as is consistent with the proper performance of their duties.

Compartment
for motorman.

(3) Every motor car built after the passing of this Act, designed for carrying passengers upon a railway operated by electricity, shall be so constructed that the motorman having the control of the motive power shall be stationed in a compartment into which no person shall be admitted save the officers or employees of the company on duty; and no person other than such officers or employees shall be permitted to occupy any portion of such compartment or vestibule.

Penalty.

(4) Any company offending against the provisions of this section shall incur a penalty of \$100 for each offence and any person offending against the provisions of this section shall incur a penalty of not less than \$2 or more than \$50,

recoverable under *The Ontario Summary Convictions Act*.

Application.

(5) This section shall apply only to railways operated by electricity, street railways and incline railways. 3-4 Geo. V. c. 60, s. 102.

Power to
modify re-
quirements
of section 102.

103. The Board may, by order applicable either generally or in one or more particular cases, alter or modify any of the requirements of section 102. 3-4 Geo. V. c. 36, s. 103.

Powers of Board as to Equipment and Service.

Board may
make regula-
tions re-
specting—

104.—(1) The Board may make orders and regulations

Speed of
trains.

(a) limiting the rate of speed at which railway trains and locomotives may be run in any city, town or village, or in any class of cities, towns or villages; and prescribing, if it thinks fit, certain maximum rates of speed within certain described

portions of any city, town or village, and different rates of speed in other portions thereof;

- (b) with respect to the use of the steam whistle within any city, town or village or any portion thereof; Use of steam whistle.
- (c) with respect to the method and means of passing from one car to another, either inside or overhead, and for the safety of employees while passing from one car to another; Passing from car to car.
- (d) for the coupling of cars; Coupling.
- (e) requiring proper shelter to be provided for all employees when on duty; Shelter for employees.
- (f) with respect to the use on any engine of nettings, screens, grates and other devices, and the use on any engine or car of any appliances and precautions, and generally in connection with the railway respecting the construction, use and maintenance of any fire-guard or works which may be deemed by the Board necessary and most suitable to prevent, as far as possible, fires from being started or occurring upon, along or near the right of way of the railway. Devices to avoid fires.
- (g) requiring the company to establish and maintain an efficient and competent staff of fire-rangers, equipped with such appliances for fighting or preventing fires from spreading as the Board may deem proper, and to provide such rangers with proper and suitable equipment to enable them to move from place to place along the line of railway with all due speed; Fire-rangers.
- (h) requiring the company to maintain an efficient patrol of the line of railway and other lands in the vicinity thereof to which fires may spread, and generally to define the duties of the company and such fire-rangers in respect thereof; Patrol of railway.
- (i) requiring the company to make returns of the names of fire-rangers in its employ in the performance of the above duties, and of the places or areas in which they are from time to time engaged; Returns.

For the purpose of fighting and extinguishing fires, the fire-rangers may follow the fires which spread from the railway to, over and upon the lands to which they may spread. Powers of rangers.

- (j) with respect to the rolling stock, apparatus, cattle-guards, fenders, brakes, sanders, and vestibules, steps, seats, heating, lighting, open or closed cars, appliances, signals, methods, devices, structures and works to be used upon the railway, so as to For protection generally.

provide means for the due protection of property, the employees of the company, and the public;

Other matters.

(*k*) with respect to any matter, act or thing which, by this Act or the special Act is sanctioned, required to be done, or prohibited;

Generally.

(*l*) generally for carrying this Act into effect.

Application of orders.

(2) Any such orders or regulations may be made to apply to any particular locality, to any railway or section, or portion thereof, and the Board may exempt any railway or section or portion thereof, from the operation of any such order or regulation, for such time or during such period as the Board deems expedient.

Penalties.

(3) The Board may, by regulation, provide penalties, when not already provided in this Act, to which every company, person or municipal corporation offending against any regulation made under this section shall be liable, but no such penalty shall exceed \$100 for each offence, and every such penalty shall be recoverable under *The Ontario Summary Convictions Act*, or by action at the suit of the Attorney-General as the Board may, by regulation, determine.

Rev. Stat. c. 90

Saving.

(4) The imposition of any such penalty shall not lessen or affect any other liability which any company, person or municipal corporation may have incurred.

Application of regulations.

(5) All orders or regulations under this section may be made to apply to any railways, whether operated by steam, electricity or other motive power, but no such order or regulation shall increase or extend, lessen or impair any obligation or duty resting upon, or any privilege or franchise enjoyed by the company under the special Act or under any agreement. 3-4 Geo. V. c. 36, s. 104.

Jurisdiction of Board over railway.

105.—(1) Whenever the Board is of opinion after hearing had upon its own motion or upon complaint, that the regulations, practices, equipment, appliances or service of any railway company, street railway company, or incline railway company in respect to the transportation of persons, freight or property are unjust, unreasonable, unsafe, improper or inadequate, it shall determine the just, reasonable, safe, proper and adequate regulations, practices, equipment, appliances or service thereafter to be in force, to be observed and to be used in such transportation of persons, freight, and property, and fix and prescribe the same by order to be served upon the company to be bound thereby; and it shall be the duty of the company to observe and obey every requirement of every such order and to do everything necessary or proper in order to secure absolute compliance with and observance of every such order by its officers, agents and employees.

As to regulations, equipment and service.

(2) Whenever, in the opinion of the Board, repairs or improvements to or changes in any tracks, road-beds, switches, terminals or terminal facilities, motive power or any other property or device used by any railway company or street railway company, or incline railway company, in or in connection with the transportation of passengers, freight or property, ought reasonably to be made thereto in order to promote the security or convenience of the public or of the employees of the company or to secure adequate service or facilities for the transportation of passengers, freight or property, the Board, upon a hearing had either upon its own motion or after complaint, shall make and serve an order directing such repairs, improvements, changes or additions to be made within a reasonable time and in a manner to be specified therein, and every company shall make all repairs, improvements, changes and additions required of it by any such order within the time and in the manner specified in the order.

Tracks
and motive
power.

(3) Whenever in the opinion of the Board, a street railway company or incline railway company

Jurisdiction
over street
railways or
incline
railways.

- (a) does not run cars enough or possess or operate motive power enough reasonably to accommodate the passengers transported or offered for transportation to it,
- (b) does not run its cars with sufficient frequency or at a reasonably proper time,
- (c) does not run any car upon a reasonable time schedule for the run,
- (d) does not provide reasonable routes and services for the accommodation of the public,
- (e) does not provide for stopping its cars to take on and discharge its passengers at convenient points or at a sufficient number of points,
- (f) does not sufficiently or properly heat and light any of its cars or keep the same clean, or
- (g) operates any car which is not in proper repair and condition,

the Board may, after a hearing had either on its own motion or upon complaint, make an order directing the company to increase the number of its cars or its motive power, to change the time for starting any car, to change the time schedule for the run of any car, to run cars and provide a sufficient service upon any route that the Board may deem necessary for the accommodation of the public, to sufficiently light and heat its cars and keep them clean, to stop its cars to take on and discharge passengers at such points as the Board may deem proper, and may make any other order which the Board may deem necessary to accommodate and transport the pas-

Improve-
ment of
service.

sengers transported or offered for transportation, and the company shall be bound to obey every such order according to the urgency thereof.

Powers
additional
to present
powers.

(4) The powers conferred by the three next preceding subsections upon the Board shall be in addition to the powers conferred upon it elsewhere in this Act.

Enforce-
ment of
orders.

(5) The Board shall have the like power and authority for the enforcement of any order made by it under the provisions of such three subsections as it possesses for the enforcement of its orders under the other provisions of this Act, and especially the power and authority conferred by section 26 of *The Ontario Railway and Municipal Board Act*, and 260 of this Act.

Rev. Stat.
c. 186.

Application
of section.

(6) The provisions of this section shall apply notwithstanding any agreement between the company and a municipal corporation or the provisions of any general or special Act relating to the agreement or to the company.

Power to
require
construction,
maintenance
and
operation of
additional
lines.

(7) The powers conferred by this Act in the case of street railways wholly or partly in cities having a population of one hundred thousand or over shall include, but in the case of other street railways shall not include, the power to require the company owning or operating the street railway to construct, maintain and operate additional lines and extensions of existing lines, in, along and upon any street or highway or part of a street or highway upon which the company has authority to construct, maintain and operate its railway.

Limitation
of Board's
power.

(8) The Board shall not have power or authority to require or to permit a railway company, street railway company, or incline railway company, without the consent of the corporation of the municipality, to construct or lay down within the municipality more tracks or lines than, under its agreement with the corporation or the by-law of the council of the corporation of the municipality by which authority to construct the railway upon any such street or highway or part of a street or highway was conferred, it has authority to construct or lay down, but the agreement or by-law shall govern as to the number and location of the tracks and the streets or highways upon which the railway may be constructed.

Application
of agree-
ment.

(9) All tracks, switches, additional lines and extensions of existing lines which are, have been or shall be hereafter constructed and operated by a street railway company or incline railway company, in pursuance of an order of the Board, shall nevertheless be deemed to have been constructed under the authority, and shall be subject to all the provisions of the agreement between the company and the corporation of the municipality, or the by-law of the council thereof, by which authority to construct the railways was conferred upon the company. 3-4 Geo. V. c. 36, s. 105.

106. Railways operated by electricity shall stop at such ^{Stopping places.} places, in addition to those fixed by the by-laws or regulations of the company, as the Board may from time to time, by resolution, direct and order. 3-4 Geo. V. c. 36, s. 106.

107.—(1) Open or summer cars, for use upon a railway ^{Open cars.} operated by electricity or upon a street railway, shall be so arranged or constructed that the seats for passengers will face the front of the car when in motion, and an aisle sufficiently wide to allow the passage of the conductor shall be provided in every such car, and no open or summer cars shall be used unless so arranged.

(2) The side steps on such cars shall be so constructed, if ^{Side steps.} in the opinion of the Board it is practicable, that passengers will be prevented from standing upon the same while the car is in motion.

(3) The Board may relieve a company from the obliga- ^{Exception.} tion imposed by subsection 1 as to any route upon which the space between the tracks, commonly called the devil strip, is not sufficiently wide to permit cars so arranged or constructed to be used.

(4) In all cases of dispute between a railway or street ^{Disputes to be settled by Board.} railway company and a municipal corporation or any person making complaint to the Board as to sufficiency of width, practicability of construction of cars or as to any other matter or thing mentioned in this section, the order of the Board shall be final and shall not be subject to appeal, and any order made by the Board as to any such matter shall be ^{Finality.} carried out and fulfilled by the company and the municipal corporation or either or both of them according to its terms.

(5) No passenger shall stand or be permitted to stand ^{Passengers not to stand on side steps.} upon the side steps of any car for a greater length of time than is necessary to enable him to enter or leave the same.

(6) For every contravention of subsection 5, the person ^{Penalty.} offending shall incur a penalty of not less than \$2 or more than \$10, recoverable under *The Ontario Summary Convic- ^{Rev. Stat. c. 90.} tions Act.* 3-4 Geo. V. c. 36, s. 107.

THE ROAD BED AND ADJACENT LANDS.

Frogs, Packing, etc.

108.—(1) The spaces behind and in front of every rail- ^{In what spaces.} way frog or crossing, and between the fixed rails of every switch, where such spaces are less than four inches in width, shall be filled with packing up to the under side of the head of the rail.

(2) The spaces between any wing rail and any railway ^{Idem.} frog, and between any guard rail and the track rail alongside

of it, shall be filled with packing at their splayed ends, so that the whole splay shall be so filled where the width of the space between the rails is less than four inches.

Height of.

(3) Such packing shall not reach higher than to the underside of the head of the rail.

Of what to consist.

(4) Such packing shall consist of wood or metal, or some equally substantial and solid material, of not less than two inches in thickness, and, where by this section any space is required to be filled in on any railway, shall extend to within one and a half inch of the crown of the rails in use, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid.

Board may regulate.

(5) The Board may, notwithstanding the requirements of this section, allow the filling and packing therein mentioned to be left out from the month of December to the month of April in each year, both months included, or between any such dates as the Board, by regulation or in any particular case, determines. 3-4 Geo. V. c. 36, s. 108.

Drainage.

Ditches and drains.

109.—(1) The company shall, in constructing the railway, make and maintain suitable ditches and drains along each side of and across and under the railway, to connect with ditches, drains, drainage works and watercourses upon the land through which the railway runs, so as to afford sufficient outlet to drain and carry off the water, and so that the then natural, artificial, or existing drainage of the land shall not be obstructed or impeded by the railway.

(2) Whenever

If drainage insufficient.

(a) any land is injuriously affected by reason of the drainage upon, along, across, or under the railway being insufficient to drain and carry off the water from such land; or

Or municipality desires.

(b) any municipal corporation or landowner desires to obtain means of drainage, or the right to lay water pipes or other pipes, temporarily or permanently, through, along, upon, across, or under the railway or any works or land of the company

Board may order.

the Board may, upon the application or complaint of the municipal corporation or landowner, order the company to construct such drainage or lay such pipes, and may require the applicant to submit to the Board a plan and profile of the portion of the railway to be affected, or may direct an inspecting engineer, or such other person as it deems advisable to appoint, to inspect the locality in question, and, if expedient, there to hold an inquiry as to the necessity or requirements for such drainage or pipes, and to make a full report thereon to the Board.

(3) The Board may upon such report, or in its discretion, ^{Terms and conditions.} order how, where, when, by whom and upon what terms and conditions such drainage may be effected, or pipes laid, constructed and maintained, having due regard to all proper interests.

(4) An order of the Board shall not be required in cases ^{When order not required.} in which water pipes or other pipes are to be laid or maintained under the railway, with the consent of the railway company, in accordance with any general regulations, plans or specifications adopted or approved by the Board for such purpose. 3-4 Geo. V. c. 36, s. 109.

110.—(1) Whenever, by virtue of any Act, proceedings ^{Drainage proceedings under Provincial Acts.} may be had or taken by any municipal corporation or landowner for any drainage, or drainage works, including the construction, enlargement, improvement or extension of any ditch or watercourse upon or across the property of any landowner, such proceedings may be had or taken by such municipal corporation or landowner for drainage or drainage works upon and across the railway and land of the company, in the place of the proceedings before the Board provided for by the next preceding section.

(2) Thereupon such Act shall apply to the land of the company upon or across which such drainage or other work ^{Application of such Acts.} is required, subject, however, to any previous order or direction of the Board made or given with respect to drainage of the same land, and the company shall have the option of constructing the portion of any drain or drainage work required to be constructed upon, along, under or across its railway or land.

(3) In the event of the company not exercising such option, ^{Where delay.} and completing such work within a reasonable time and without any unnecessary delay, such work may be constructed or completed in the same manner as any other portions of such work are to be constructed under the provisions of such Act.

(4) Notwithstanding anything in this section, no such ^{Approval of Board.} drain or drainage works shall be constructed or reconstructed upon, along, under or across the railway or land of the company until the character of such works or the specifications or plans thereof have been first submitted to and approved of by the Board.

(5) The proportion of the cost of drain or drainage works ^{Cost of work.} upon, along, under or across the railway or land of the company to be borne by the company shall in such cases be based upon the increase of cost of such work caused by the construction and operation of the railway. 3-4 Geo. V. c. 36, s. 110.

[See also *The Municipal Drainage Act, R.S.O. c. 198.*]

Canals, Ditches, Wires, etc.

When
canals,
pipes or
wires
require to
be carried
across a
railway.

Applica-
tion to
Board.

Plan and
profile.

Terms of
order.

111.—(1) When any person having authority to create, develop, enlarge or change any water power, or any electrical or power development by means of water, or to develop and operate mineral claims or mines, desires for any such purpose to carry any canal, tunnel, flume pipe, ditch or wire across, over or under any railway, and is unable to agree with the railway company as to the terms and conditions upon which the same may be so carried over, under or across the said railway, an application may be made to the Board for leave to construct the necessary works.

(2) Upon such application the applicant shall submit to the Board a plan and profile of the railway at the point where it is desired to make such crossing, and a plan or plans showing the proposed method of carrying such canal, tunnel, flume pipe, ditch or wire across, over or under the said railway, and such other plans, drawings and specifications as the Board in any case or by any regulation requires.

(3) The Board may, by order, grant such application on such terms and conditions as to protection and safety, payment of compensation or otherwise, as it deems just and proper, may change the plans, profiles, drawings and specifications so submitted, and fix the place and mode of crossing, and may give directions as to the method in which the works are to be constructed and as to supervision of the construction of the works and the maintenance thereof, and may order that detailed plans, drawing and specifications of any works, structures, equipment or appliances required shall, before construction or installation, be submitted to and approved by the Board. 3-4 Geo. V. c. 36, s. 111.

Farm Crossings.

Farm cross-
ings.

112.—(1) Every company shall make crossings for persons across whose land the railway is carried convenient and proper for the crossing of the railway for farm purposes.

Care of
live stock.

(2) Live stock in using such crossing shall be in charge of some competent person who shall take all reasonable care and precaution to avoid accidents. 3-4 Geo. V. c. 36, s. 112.

Necessary
crossings
may be
ordered by
Board.

113.—(1) The Board may, upon the application of any landowner, order the company to provide and construct a suitable crossing across the railway wherever in any case the Board deems it necessary for the proper enjoyment of his land, on either side of the railway, and safe in the public interest.

Details.

(2) The Board may order and direct how, when, where, by whom, and upon what terms and conditions, such crossing shall be constructed and maintained. 3-4 Geo. V. c. 36, s. 113.

Fences, Gates and Cattle-guards.

114.—(1) The company shall erect and maintain upon the railway Fences, etc., to be kept up.

(a) fences of a minimum height of four feet six inches on each side of the railway; Height and place.

(b) swing gates in such fences, of the height of the fence, with proper hinges and fastenings, at farm crossings: provided that sliding or hurdle gates, constructed before the 14th day of May, 1906, may be maintained; and Gates.

(c) cattle-guards, on each side of the highway, at every highway crossing at rail-level with the railway. Cattle-guards.

(2) The railway fences at every such crossing shall be turned into the respective cattle-guards on each side of the highway. Fences to be turned into cattle guards.

(3) Subsections 1 and 2 shall not apply where a railway is being operated along a public highway. Except along highway.

(4) Such fences, gates and cattle-guards shall be suitable and sufficient to prevent cattle, horses and other animals from getting on the railway lands. Nature of fences, etc.

(5) The Board may, upon application made to it by the company, relieve the company, temporarily or otherwise, from erecting and maintaining such fences, gates and cattle-guards, where the railway passes through any locality in which, in the opinion of the Board, such works and structures are unnecessary. Exemption by Board.

(6) Where the railway is being constructed through enclosed lands it shall be the duty of the company to take effective measures to prevent cattle or other animals escaping from or getting upon such enclosed lands or upon the property of the company by reason of any act or thing done by the company, its contractors, agents or employees. Where lands are enclosed.

(7) The persons for whose use farm crossings are furnished shall keep the gates at each side of the railway closed when not in use. 3-4 Geo. V. c. 36, s. 114. Duty of users to close gates.

115. Where the railway passes alongside of and immediately adjacent to a public highway the company shall not be required to erect and maintain a fence between the company's land and the highway unless the Board otherwise orders or directs; but where the railway is diverted from alongside of the highway the company shall erect and maintain cattle-guards at the point of diversion, and the railway fences at such point shall be turned into the cattle-guards. 3-4 Geo. V. c. 36, s. 115. Fencing line adjoining highway.

Bridges, Tunnels and other Structures.

Headway
in tunnels
and bridges.

116.—(1) Every bridge, tunnel or other erection or structure, over, through or under which any railway passes, shall be so constructed and maintained as to afford, at all times, an open and clear headway of at least seven feet between the top of the highest freight car used on the railway and the lowest beam, member, or portion of that part of such bridge, tunnel, erection or structure, which is directly over the space liable to be traversed by such car in passing thereunder.

Alteration
of existing
structures.

(2) The Board may, if necessary, require any existing bridge, tunnel or other erection or structure to be reconstructed or altered, within such time as it may order, so as to comply with the requirements mentioned in the last preceding subsection; and any such bridge, tunnel, or other erection or structure when so reconstructed or altered shall thereafter be maintained accordingly.

Space.

(3) Except by leave of the Board the space between the rail level and such beams, members or portions of any such structure, constructed after the 14th day of May, 1906, shall in no case be less than twenty-two feet six inches.

Where
structures
not owned
by company.

(4) If, in any case, it is necessary to raise, reconstruct or alter any bridge, tunnel, erection or structure not owned by the company, the Board, upon application of the company, and upon notice to all parties interested, or without any application, may make such order, allowing or requiring such raising, reconstruction or alteration, and upon such terms and conditions as to the Board shall appear just and proper and in the public interest.

What
may be
exempted.

(5) The Board may exempt from the operation of this section any bridge, tunnel, erection or structure, over, through or under which no trains, except such as are equipped with air brakes, are run.

Penalty for
default.

(6) Every company or owner shall incur a penalty not exceeding \$50 for each day of wilful neglect, omission or refusal to obey the provisions of this section. 3-4 Geo. V. c. 36, s. 116.

When
approval
of Board
required for
alterations
in bridges, etc.

117.—(1) The company shall not commence the construction or reconstruction of or any material alteration in any bridge, tunnel, viaduct, trestle, or other structure, through, over, or under which the company's trains are to pass, the span, or proposed span or spans, or length of which exceeds eighteen feet, until leave therefor has been obtained from the Board, unless such construction, reconstruction, or alteration is made in accordance with standard specifications and plans approved by the Board.

Application
therefor and
material.

(2) Upon any application to the Board for such leave, the company shall submit to the Board the detail plans, profiles,

drawings and specifications of any such work proposed to be constructed, or reconstructed, and such other plans, profiles, drawings and specifications as the Board may, in any case or by regulation, require.

(3) Upon any such application the Board may

Powers of Board.

(a) make such order with regard to the construction of such work, and upon such terms and conditions as it deems expedient;

Terms.

(b) make alterations in the detail plans, profiles, drawings and specifications so submitted;

Alterations.

(c) give directions respecting the supervision of any such work; and

Supervision.

(d) require that such other works, structures, equipment, appliances and materials be provided, constructed, maintained, used, and operated, and that such measures be taken, as, under the circumstances of each case, may appear to the Board best adapted for securing the protection, safety and convenience of the public.

Other works.

(4) Upon such order being granted the company shall be authorized to construct such works in accordance therewith.

Company may construct.

(5) Upon the completion of any such work the company shall, before using or operating the same, apply to the Board for an order authorizing such use or operation, and the Board may grant such order if it is satisfied that its orders and directions have been carried out, and that such work may be used or operated without danger to the public, and that the provisions of this section have been complied with. 3-4 Geo. V. c. 36, s. 117.

Leave of Board authorizing operation.

Railways along or across Highways.

118.—(1) Subject to the provisions of this Act respecting the operation of railways along highways, and subject to the company, not being a street railway company, making such compensation to adjacent or abutting landowners whose lands are injuriously affected, whether structurally or otherwise, by the construction or operation of the railway as the Board deems proper, the railway of the company may be carried upon, along, or across an existing highway upon leave therefor having been first obtained from the Board as hereinafter authorized; but the Board shall not grant leave to any company to carry any street railway or tramway, or any railway operated or to be operated as a street railway or tramway, along any highway which is within the limits of any city or town until the company has first obtained consent therefor by a by-law of such city or town.

Railway on highway.

Consent of municipality.

Highway
to be
kept open.

(2) The company shall, before obstructing any such highway by its works, turn the highway so as to leave an open and good passage for carriages, and on completion of the works shall restore the highway to as good a condition as it was originally in.

Penalty.

(3) Every company which contravenes the provisions of this section shall incur a penalty of not less than \$40 for each such contravention. 3-4 Geo. V. c. 36, s. 118.

Variation of
inch be-
tween rail
and levels
of highways
permitted.

119. Whenever the railway crosses any highway at rail-level, whether the level of the highway remains undisturbed or is raised or lowered to conform to the grade of the railway, the top of the rail may, when the works are completed, unless otherwise directed by the Board, rise above or sink below the level of the highway to the extent of one inch without being deemed an obstruction. 3-4 Geo. V. c. 36, s. 119.

Deposit of
plan with
Board.

120.—(1) Upon any application for leave to construct a railway upon, along or across any highway, or to construct a highway along or across any railway, the applicant shall submit to the Board a plan and profile showing the portion of the railway and highway affected.

Powers of
Board.

(2) The Board may, by order, grant such application in whole or in part and upon such terms and conditions as to protection, safety and convenience of the public as the Board deems expedient, or may order that the railway be carried over, under or along the highway, or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, or that such other work be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction, in the opinion of the Board, arising or likely to arise in respect of the granting of the application in whole or in part in connection with the crossing applied for, or arising or likely to arise in respect thereof in connection with any existing crossing.

Provisions
as to taking
land and
compensation.

(3) When the application is for the construction of the railway upon, along or across a highway, all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance to the company, and to the compensation therefor, shall apply to the land, exclusive of the highway crossing, required for the proper carrying out of any order made by the Board.

Supervision.

(4) The Board may exercise supervision in the construction of any work ordered by it under this section, or may give directions respecting such supervision.

Details to
be approved
by Board.

(5) When the Board orders the railway to be carried over or under the highway, or the highway to be carried over or under the railway, or any diversion temporarily or perman-

ently of the railway or the highway, or any works to be executed under this section, the Board may direct that detailed plans, profiles, drawings and specifications be submitted to the Board.

(6) The Board may make regulations respecting the plans, profiles, drawings and specifications required to be submitted under this section. 3-4 Geo. V. c. 36, s. 120. Regulations by Board.

121. The Board may order any company to erect over its railway at or near, or in lieu of any highway crossing at rail level, a foot bridge or foot bridges for the purpose of enabling persons passing on foot along such highway to cross the railway by means of such bridge or bridges. 3-4 Geo. V. c. 36, s. 121. Foot bridges.

122. The highway at any overhead railway crossing shall not at any time be narrowed by means of any abutment or structure to an extent less than twenty feet, nor shall the clear headway from the surface of the highway to the centre of any overhead structure, constructed after the 14th day of May, 1906, be less than fourteen feet, unless otherwise directed or permitted by the Board. 3-4 Geo. V. c. 36, s. 122. Width of highway and height of overhead railway crossings.

123.—(1) Where a railway is already constructed upon, along or across any highway the Board may, upon its own motion, or upon complaint or application by or on behalf of the Crown, or any municipal or other corporation, or any person aggrieved, order the company to submit to the Board, within a specified time, a plan and profile of such portion of the railway and may cause inspection of such portion and may inquire into and determine all matters and things in respect of such portion, and the crossing, if any, and may make such order as to the protection, safety and convenience of the public as it deems expedient, or may order that the railway be carried over, under or along the highway, or that the highway be carried over, under or along the railway, or that the railway or highway be temporarily or permanently diverted, and that such other work be executed, watchmen or other persons employed, or measures taken as under the circumstances appear to the Board best adapted to remove or diminish the danger or obstruction, in the opinion of the Board, arising or likely to arise in respect of such portion or crossing, if any, or any other crossing directly or indirectly affected. Powers of Board as to existing crossings.

(2) When the Board of its own motion, or upon complaint or application, makes any order that a railway be carried across or along a highway, or that a railway be diverted, all the provisions of law at such time applicable to the taking of land by the company, to its valuation and sale and conveyance to the company, and to the compensation therefor, shall apply to the land, exclusive of the highway crossing, required for the proper carrying out of any order made by the Board. Provisions as to taking land and compensation.

Apportionment of cost of changes.

(3) Notwithstanding anything in this Act, or in any other Act, the Board may, subject to the provisions of section 124 of this Act, order what portion, if any, of the cost is to be borne respectively by the company, municipal or other corporation, or person in respect of any order made by the Board under this or the preceding section, and such order shall be binding on and enforceable against any railway company, municipal or other corporation or person named in such order. 3-4 Geo. V. c. 36, s. 123.

Railways hereafter constructed to provide for safety of public at highway crossings.

124. Where a railway is constructed after the passing of this Act the company shall, at its own cost and expense, unless and except as otherwise provided by agreement, approved of by the Board, between the company and a municipal or other corporation or person, provide, subject to the order of the Board, all protection, safety and convenience for the public in respect of any crossing of a highway by the railway. 3-4 Geo. V. c. 36, s. 124.

All structures must be safely constructed and maintained.

125. Every structure by which any railway is carried over or under any highway, or by which any highway is carried over or under any railway, shall be so constructed and, at all times, be so maintained as to afford safe and adequate facilities for all traffic passing over, under or through such structure. 3-4 Geo. V. c. 36, s. 125.

Inclination of highway.

126.—(1) The inclination of the ascent or descent, as the case may be, of any approach by which any highway is carried over or under any railway, or across it at rail level, shall not, unless the Board otherwise directs, be greater than one foot of rise or fall for every twenty feet of the horizontal length of such approach.

Fencing approaches.

(2) A good and sufficient fence, at least four feet six inches in height from the surface of the approach or structure, shall be made on each side of such approach, and of the structure connected with it. 3-4 Geo. V. c. 36, s. 126.

Signboards at level crossings.

127. Signboards at every highway crossed at rail level by any railway shall be erected and maintained at each crossing, and shall have the words "Railway Crossing" painted on each side thereof, in letters at least six inches in length, and every company which neglects to comply with the requirements of this section shall incur a penalty not exceeding \$10 recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 127.

Penalty.

Rev. Stat. c. 90.

Railway may be required to repair any level crossing out of repair.

128.—(1) Where a level crossing on any railway is out of repair the head of the municipality, under the jurisdiction of whose council the highway is, may serve a notice upon the company in the usual manner requiring the repair to be forthwith made; and if the company does not forthwith make the same the head of the municipality may transmit a

copy of the notice so served to the Board; and thereupon the Board may order an inspection to be made and may appoint an inspector for that purpose who shall forthwith appoint a day when he will examine into the matter; and he shall, by mail, give notice to the head of the municipality, and to the company, of the day he so fixes; and upon the day so named he shall examine the crossing, and a certificate under his hand shall be final on the subject so in dispute between the parties; and if the inspector determines that any repairs are required he shall specify the nature thereof in his certificate and direct the company to make the same; and the company shall thereupon forthwith comply with the requirements of the certificate; and, in case of default, the corporation of the municipality may make such repairs and may recover all costs, expenses and outlays in the premises by action against the company.

Notice.

Inspector's certificate to be conclusive.

(2) The inspector shall be entitled to be paid \$10 and actual travelling expenses while engaged on the inspection, and in case he finds that any repairs are required he shall be paid by the company, but if he finds that no repairs are required he shall be paid by the municipality.

Payment of inspectors.

(3) Neither this section nor any proceeding had thereunder shall affect any liability otherwise attaching to such company in the premises. 3-4 Geo. V. c. 36, s. 128.

Other liability.

Crossing and Junction of Railways.

129.—(1) The railway lines or tracks of any company shall not cross or join or be crossed or joined by or with any railway lines or tracks other than those of such company until leave therefor has been obtained from the Board as hereinafter provided.

Leave necessary for crossings and junctions.

(2) Upon any application for such leave the applicant shall submit to the Board a plan and profile of such crossing or junction and such other plans, drawings and specifications as the Board may, in any case or by regulation, require.

Application to Board and material.

(3) The Board may by order

Powers of Board.

- (a) grant such application on such terms as to protection and safety as it may deem expedient;
- (b) change the plan and profile, drawings and specifications, so submitted and fix the place and mode of crossing or junction;
- (c) direct that one line or track or one set of lines or tracks be carried over or under another line or track or set of lines or tracks;
- (d) direct that such works, structures, equipment, appliances and materials be constructed, provided,

installed, maintained, used or operated, watchmen or other persons employed, and measures taken, as under the circumstances appear to the Board best adapted to remove and prevent all danger of accident, injury or damage;

- (e) determine the amount of damage and compensation, if any, to be paid for any property or land taken or injuriously affected by reason of the construction of such works;
- (f) give directions as to supervision of the construction of the works; and
- (g) require that detailed plans, drawings and specifications of any works, structures, equipment or appliances required, shall, before construction or installation, be submitted to and approved by the Board.

Leave of
Board
authorizing
operation.

(4) No trains shall be operated on the lines or tracks of the applicant, over, upon or through such crossing or junction until the Board grants an order authorizing such operation.

Idem.

(5) The Board shall not grant such order until satisfied that its orders and directions have been carried out, and that the provisions of this section have been complied with.

Safety
appliances
on rail-level
crossings.

(6) The Board may order the adoption and use at any such crossing or junction, at rail levels, of such interlocking switch, derailing device, signal system, equipment, appliances and materials, as in the opinion of the Board will render it safe for engines and trains to pass over such crossing or junction without being brought to a stop. 3-4 Geo. V. c. 36, s. 129.

Connections
of intersect-
ing rail-
way lines.

130.—(1) Where the lines or tracks of one railway are intersected or crossed by those of another, or upon any application for leave to make any intersection or crossing, or in any case in which the tracks or lines of two different railways run through or into the same city, town or village, the Board may, upon the application of one of the companies, or of a municipal corporation or other public body, or of any person interested, order that the lines or tracks of such railways shall be so connected at or near the point of intersection or crossing, or in or near such city, town or village, as to admit of the safe and convenient transfer or passing of engines, cars and trains from the tracks or lines of one railway to those of another, and that such connection shall be maintained and used.

Terms and
costs.

(2) In and by the order for such connection, or from time to time subsequently, the Board may determine by what company or companies, or other corporations or persons, and

in what proportions, the cost of making and maintaining any such connection shall be borne, and upon what terms traffic shall be thereby transferred from the lines of one railway to those of another. 3-4 Geo. V. c. 36, s. 130.

131.—(1) Where the lines or tracks of any railway, the construction or operation of which is authorized by this Legislature, are intersected or crossed by those of a railway, the construction or operation of which is authorized by the Parliament of Canada, or in any case in which the lines or tracks of any two such railways run through or into the same city, town or village, and it is desired by one of such companies or by any municipal corporation or other public body, or any person interested, that the lines or tracks of such railways should be connected, so as to admit of the safe and convenient transfer of engines and trains from the lines or tracks of one railway to those of another, and for the reasonable receiving, forwarding, delivering, and interswitching of traffic between such railways, the following proceedings may be had and taken:—

Case of intersection with a railway authorized by the Dominion Parliament.

- (a) Either of such companies, or any municipal corporation or other public body, or any person interested, may file with the secretary, and with the secretary of the Board of Railway Commissioners for Canada, an application for an order that such connection should be required to be made, together with evidence of service of such application upon the railway companies interested or affected, and where the application is not made by the municipal corporation, upon the head of the municipal corporation of the municipality within which the proposed connection is to be made.

Application to Board and to Dominion Board.
- (b) After the receipt of the application, the Board, and the Board of Railway Commissioners for Canada, may, by joint session or conference, in conformity with the practice to be established by them, hear and determine the application, and may order that the lines and tracks of such railways shall be so connected at or near the point of intersection, or in or near such city, town or village, upon such terms and conditions and subject to such plans as they may deem proper.

Joint order of boards.
- (c) The Chairman of the Board, and the Chairman of the Board of Railway Commissioners for Canada, may make rules of procedure and practice covering the making of such applications and the hearing and disposition thereof, and may vary, alter or rescind the same from time to time.

Power to make rules governing such applications.
- (d) The Chairman of the Board, and the Chairman of the Board of Railway Commissioners for Canada, may from time to time assign or appoint from

Membership of joint Board.

each Board the members comprising the Joint Board that may be required to sit for the hearing and determining of such applications as they arise.

Order may
be made
Rule of
Court.

(e) The order aforesaid may be made a rule of the Exchequer Court of Canada, and may be enforced in like manner as a rule, order or decree of such court.

Interpreta-
tion.

(2) "Railway" for the purposes of this section shall include a steam or electric railway, street railway, tramway and incline railway. 3-4 Geo. V. c. 36, s. 131.

Mines and Minerals.

Mines to be
protected.

132. The company shall not, without the authority of the Board, locate the line of its proposed railway or construct the same or any portion thereof so as to obstruct or interfere with or injuriously affect the working of or the access or adit to any mine then open, or for the opening of which preparations are, at the time of such location, being lawfully and openly made. 3-4 Geo. V. c. 36, s. 132.

Company
not entitled
to minerals.

133.—(1) The company shall not, unless the same have been expressly purchased, be entitled to any mines, ores, metals, coal, slate, mineral oils, gas or other minerals in or under any land purchased by it, or taken by it under any compulsory powers given it by this Act, except only such parts thereof as are necessary to be dug, carried away or used in the construction of the works.

Exception.

Not included
in convey-
ance.

(2) All such mines and minerals, except as provided by subsection 1, shall be deemed to be excepted from the conveyance of such land, unless they have been expressly named therein and conveyed thereby. 3-4 Geo. V. c. 36, s. 133.

Prohibition of
mining
within 40
yards of
railway.

134.—(1) No owner, lessee or occupier of any such mines or minerals lying under the railway or any of the works connected therewith, or within forty yards therefrom, shall work the same until leave therefor has been obtained from the Board.

Application
to Board and
material.

(2) Upon any application to the Board for leave to work any such mines or minerals the applicant shall submit a plan and profile of the portion of the railway to be affected thereby, and of the mining works or plant affecting the railway, proposed to be constructed or operated, giving all reasonable and necessary information and details as to the extent and character of the same.

Terms for
protection of
the public.

(3) The Board may grant such application upon such terms and conditions for the protection and safety of the public as the Board deems expedient, and may order that such other works be executed, or measures taken, as under

the circumstances appear to the Board best adapted to remove or diminish the danger arising or likely to arise from such mining operations. 3-4 Geo. V. c. 36, s. 134.

135. The company shall, from time to time, pay to the owner, lessee or occupier of any such mines such compensation as the Board shall order to be paid to such owner, lessee or occupier for and on account of any severance of the land lying over such mines by the railway, or of the working of such mines being prevented, stopped or interrupted, or of the same being worked in such manner and under such restrictions as not to prejudice or injure the railway, and also for any minerals not purchased by the company which cannot be obtained by reason of making and maintaining the railway. 3-4 Geo. V. c. 36, s. 135.

Compensation of mine-owner for loss through severance of mine.

136. If necessary, in order to ascertain whether any such mines are being worked, or have been worked, so as to damage the railway or works or in such manner as to be detrimental to the safety of the public using the railway or of the tracks and trains of the company, it shall be lawful for the company, with the written permission and authorization of the Board, after giving twenty-four hours' notice in writing, to enter upon any lands through or near which the railway passes wherein any such mines are being worked, and to enter into and return from any such mines or the works connected therewith; and for that purpose it shall be lawful for them to make use of any apparatus of such mines, and to use all necessary means for discovering the distance from the railway to the parts of such mines which are being worked. 3-4 Geo. V. c. 36, s. 136.

Power of company to enter mines for purpose of ascertaining whether working endangers railway.

137. If the owner, lessee or occupier of any such mine refuses to allow any person appointed by the company for that purpose to enter into and inspect any such mines or works in manner aforesaid, every person so offending shall, for every such refusal, forfeit to the company a sum not exceeding \$100. 3-4 Geo. V. c. 36, s. 137.

Penalty for refusing company access to mines.

Prevention of Fire.

138. The company shall at all times maintain and keep its right of way free from dead or dry grass, weeds and other unnecessary inflammable matter. 3-4 Geo. V. c. 36, s. 138.

Removing inflammable matter.

139.—(1) Whenever damage is caused to any property by a fire started by any railway locomotive the company making use of such locomotive, whether guilty of negligence or not, shall be liable for such damage, but if it is shown that the company has used modern and efficient appliances, and has not otherwise been guilty of any negligence, the total amount of compensation recoverable from the company, under this section, in respect of any one or more claims for

Liability for fire caused by locomotive.

Limit.

damage from a fire or fires started by the same locomotive and upon the same occasion, shall not exceed \$5,000.

Reduction of
damages where
insurance.

(2) If there is any insurance existing on the property destroyed or damaged the total amount of damages sustained by any claimant shall be reduced by the amount accepted or recovered by or for the benefit of such claimant in respect of such insurance.

Railway and
insurance
contract.

(3) No action shall lie against the company by reason of anything in any policy of insurance or by reason of payment of any money thereunder.

Limitation.

(4) The limitation of one year prescribed by section 265 shall run from the date of final judgment in any action brought by the assured to recover such insurance money, or, in the case of settlement, from the date of the receipt of such moneys by the assured, as the case may be.

Apportion-
ment of
compensation.

(5) The compensation, in case the total amount recovered therefor is less than the claims established, shall be apportioned amongst the persons who suffered the loss, as the court or judge may determine.

Insurable
interest in
property.

(6) The company shall have an insurable interest in all property upon or along its route, for which it may be held liable to compensate the owners for loss or damage by fire caused by a railway locomotive, and may procure insurance thereon on its own behalf. 3-4 Geo. V. c. 34, s. 139.

Powers of
Board as to
fire guards.

140. The Board may order, upon such terms and conditions as it deems expedient, that fire guards be established and maintained by the company along the route of its railway, and upon any land of His Majesty or of any person lying along such route, and, subject to the terms and conditions of any such order, the company may at all times enter into and upon any such land for the purpose of establishing and maintaining such fire guards thereon, and freeing from dead or dry grass, weeds and other unnecessary inflammable matter, the land between such fire guards and the line of railway. 3-4 Geo. V. c. 36, s. 140.

Limitation of Time for Construction.

Time for
construction
limited.

141. If the construction of the railway, street railway, or incline railway is not commenced, and fifteen per centum of the amount of the capital stock is not expended thereon, within two years after the passing of the special Act, or in case of a railway other than a street railway, if the railway is not finished and put in operation within five years from the passing of such Act, the powers granted by it or by this Act shall cease and be null and void as respects so much of the railway as then remains uncompleted. 3-4 Geo. V. c. 36, s. 141.

Use of Steam During Construction.

142. A company while constructing a line of railway to be operated by electricity on a right of way owned by the company may use steam as a motive power during such construction and at other times for construction purposes.

Electric companies may use steam for construction.

3-4 Geo. V. c. 36, s. 142.

Contracts for Construction.

143. The company may contract with any individual, corporation or association of individuals for the construction or equipment of the railway or any part thereof, including or excluding the purchase of right of way, and may pay therefor, either in whole or in part, in cash or in bonds, or in paid-up stock of the company, and may pay or agree to pay in such paid-up stock or bonds such sums as it may deem expedient to engineers, or for the right of way, or material, plant or rolling stock, and also for the services of the promoters or other persons who may be employed by the directors for the purpose of assisting them and furthering the undertaking or purchasing the right of way, material, plant or rolling stock; but no such contract shall be of any force or validity unless first authorized by resolution passed by the votes of the shareholders, in person or by proxy, representing two-thirds in value of the whole amount paid up of the total capital stock of the company then issued and outstanding, at a general meeting of the shareholders specially called for the purpose of considering such matters, and the stock so acquired by any person shall for all purposes be deemed to be paid up in cash.

Contracts for construction of line, etc.

Payment in stock or bonds.

Assent of shareholders.

OPERATION AND SERVICE.

Regulations governing the Running of Trains.

144. All regular trains shall be started and run as nearly as practicable at regular hours fixed by public notice.

Regular hours and public notice.

3-4 Geo. V. c. 36, s. 144.

145.—(1) Every company shall have a blackboard put upon the outside of the station house over the platform of the station, in some conspicuous place, at each station of such company at which there is a telegraph or telephone office; and when any passenger train or car is overdue at any such station, according to the time-table of such company, the station agent or person in charge at such station shall write, or cause to be written, with white chalk on such blackboard a notice stating, to the best of his knowledge and belief, the time when such overdue train or car may be expected to reach such station.

Notice board at stations.

Overdue trains.

Time when expected.

Further
changes.

(2) If there is any further change in the expected time of arrival the station agent or person in charge of the station shall write, or cause to be written, on the blackboard in like manner a fresh notice stating, to the best of his knowledge and belief, the time when such overdue train or car may then be expected to reach such station.

Penalty for
omission.

(3) Every such company, station agent or person in charge at any such station shall incur a penalty not exceeding \$5 for every wilful neglect, omission or refusal to obey the provisions of this section, recoverable under *The Ontario Summary Convictions' Act*. 3-4 Geo. V. c. 36, s. 145.

Rev. Stat. c. 90.

Accommoda-
tion.

146.—(1) The company shall

At starting
point junctions
and stopping
places.

(a) furnish, at the place of starting, and at the junction of the railway with other railways, and at all stopping places established for such purpose, adequate and suitable accommodation for the receiving and loading of all traffic offered for carriage upon the railway;

Carriage and
delivery.

(b) furnish adequate and suitable accommodation for the carrying, unloading, and delivering of all such traffic;

No delay.

(c) without delay, and with due care and diligence, receive, carry, and deliver all such traffic; and

Appliances for
carriage and
delivery.

(d) furnish and use all proper appliances, accommodation and means necessary for receiving, loading, carrying, unloading and delivering such traffic.

Including
accommodation
for private
sidings.

(2) Such adequate and suitable accommodation shall include reasonable facilities for the junction of private sidings or private branch railways with any railway belonging to or worked by the company and reasonable facilities for receiving, forwarding and delivering traffic upon and from those sidings or private branch railways, together with the placing of cars and moving them upon and from such private sidings and private branch railways.

Powers of
Board.

(3) If in any case such accommodation is not, in the opinion of the Board, furnished by the company, the Board may order the company to furnish the same within such time or during such period as the Board deems expedient, having regard to all proper interests; or may prohibit or limit the use, either generally or upon any specified railway or part thereof, of any engines, locomotives, cars, rolling stock, apparatus, machinery, or devices, or any class or kind thereof, not equipped as required by this Act, or by any orders or regulations of the Board made within its jurisdiction under the provisions of this Act.

Payment
of tolls.

(4) Such traffic shall be taken, carried to and from, and delivered at the places aforesaid on the due payment of the toll lawfully payable therefor.

(5) Where a company's railway crosses or joins or approaches, in the opinion of the Board, sufficiently near to any other railway upon which passengers or mails are transported, the Board may order the company to so regulate the running of its trains carrying passengers or mails, and the places and times of stopping them, as to afford reasonable opportunity for the transfer of passengers and mails between its railway and such other railway, and may order the company to furnish reasonable facilities and accommodation for such purpose.

Regulation of time to allow connections between railways for passengers and mails.

(6) For the purposes of this section the Board may order that specific works be constructed or carried out, or that property be acquired, or that specified tolls be charged, or that cars, motive power or other equipment be allotted, distributed, used or moved as specified by the Board, or that any specified steps, systems, or methods be taken or followed by any particular company, or companies, or by railway companies generally.

Specific works may be ordered by Board.

(7) Every person aggrieved by any neglect or refusal of the company to comply with the requirements of this section shall, subject to this Act, have an action therefor against the company, from which action the company shall not be relieved by any notice, condition or declaration, if the damage arises from any negligence or omission of the company or of its servants.

Right of action on default.

(8) The Board may make regulations, applying generally or to any particular railway or any portion thereof, imposing charges for default or delay by any company in furnishing accommodation, appliances, or means as aforesaid, or in receiving, loading, carrying, unloading or delivering traffic, and may enforce payment of such charges by companies to any person injuriously affected by such default or delay; and any amount so received by any person shall be deducted from the damages recoverable or recovered by such person for such default or delay; and the Board may, by order or regulation, determine what circumstances shall exempt any company from payment of any such charges. 3-4 Geo. V. c. 36, s. 146.

Demurrage.

147. Every employee of the company employed in a passenger train or at a passenger station shall wear upon his hat or cap a badge which shall indicate his office, and he shall not, without such badge, be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office, or to interfere with any passenger or his baggage or property. 3-4 Geo. V. c. 36, s. 147.

Employees in passenger trains or stations to wear badges.

148. The fare or toll shall be due and payable by every passenger on entering the car or other conveyance, and every passenger who refuses to pay his fare may, by the conductor of the train and the train servants of the company, be ex-

Expulsion on refusal to pay fare.

pelled from and put out of the train with his baggage, at any usual stopping place or near any dwelling house, as the conductor elects, the conductor first stopping the train and using no unnecessary force. 3-4 Geo. V. c. 36, s. 148.

No claim
for injuries
in certain
cases.

149. No person injured while on the platform of a car, or on any baggage or freight car, in violation of the printed regulations posted up at the time, shall have any claim in respect of the injury, if room inside of the passenger cars, sufficient for the proper accommodation of the passengers, was furnished at the time. 3-4 Geo. V. c. 36, s. 149.

Position of
passenger
cars.

150.—(1) No passenger train shall have any freight, merchandise, or lumber car in the rear of any passenger car in which any passenger is carried.

Penalty for
violation.

(2) Every officer or employee of a company who directs, or knowingly permits, any freight, merchandise or lumber car to be so placed shall incur a penalty not exceeding \$10, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 150.

Rev. Stat. c. 90.

Baggage
checks.

151.—(1) A check shall be affixed by the company to every parcel of baggage having a handle, loop or suitable means for attaching a check thereupon, delivered by a passenger to the company for transport, and a duplicate of such check shall be given to the passenger delivering the same.

Excess
baggage.

(2) In the case of excess baggage the company shall be entitled to collect from the passenger, before affixing any such check, the toll authorized under this Act.

Liability
for refusing
to check
baggage.

(3) If such check is improperly refused on demand the company shall be liable to such passenger for the sum of \$8 recoverable by action.

Saving.

(4) This section shall not apply to any train or car operated by electricity unless the Board so orders. 3-4 Geo. V. c. 36, s. 151.

Transportation
of dangerous
goods.

152.—(1) No passenger shall carry, nor shall the company be required to carry upon its railway gunpowder, dynamite, nitro-glycerine or any other goods which are of a dangerous or explosive nature.

Nature
must be
marked on
outside.
Notice.

(2) Every person who sends by the railway any such goods shall distinctly mark their nature on the outside of the package containing the same and otherwise give notice in writing to the station agent or employee of the company whose duty it is to receive such goods and to whom the same are delivered.

Penalty.

(3) Every person who contravenes this section shall forfeit to the company the sum of \$500 for every such contravention. 3-4 Geo. V. c. 36, s. 152.

153.—(1) The company may refuse to take any package or parcel which it suspects to contain goods of a dangerous nature, or may require the same to be opened to ascertain the fact. Company may refuse to carry.

(2) The company shall not carry any such goods of a dangerous nature except in cars specially designated for that purpose, on each side of each of which shall plainly appear in large letters the words "Dangerous Explosives." Carriage of such goods.

(3) For each neglect to comply with the provisions of this section the company shall incur a penalty of \$500. Penalty. 3-4 Geo. V. c. 36, s. 153.

Crossing Draw or Swing Bridge.

154.—(1) When any railway passes over any navigable water or canal by means of a draw or swing bridge which is subject to be opened for navigation every train shall, before coming on or crossing over such bridge, be brought to a full stop and shall not thereafter proceed until a proper signal has been given for that purpose. Trains to stop at swing bridges.

(2) In default the company shall incur a penalty not exceeding \$400. Penalty Company.

(3) Any employee who fails to comply with the rules of the company made for carrying into effect the provisions of this section shall incur a penalty not exceeding \$400, recoverable under *The Ontario Summary Convictions Act*, and upon conviction shall also be liable to imprisonment for any term not exceeding six months or both. Employee.

(4) Wherever there is in use on any railway at any such bridge an interlocking switch and signal system, or other device which, in the opinion of the Board, renders it safe to permit engines and trains to pass over such bridge without being brought to a stop the Board may, by order, permit engines and trains to pass over such bridge without stopping under such regulations as to speed and other matters as the Board deems proper. 3-4 Geo. V. c. 36, s. 154. Where safety devices installed.

Crossing Highways.

155.—(1) When any train is approaching a highway crossing at rail-level the engine whistle shall be sounded at least eighty rods before reaching such crossing, and the bell shall be rung continuously from the time of sounding the whistle until the engine has crossed such highway. Use of bell and whistle.

(2) In the case of a car or locomotive operated by electricity an air whistle shall be blown or the gong be sounded continuously for eighty yards before reaching such crossing. Electric cars or locomotives.

(3) The company shall for each neglect to comply with the provisions of this section incur a penalty of \$8, recoverable Penalty.

Damages.
Rev. Stat. c. 90.

under *The Ontario Summary Convictions Act*, and shall also be liable for all damage sustained by any person by reason of such neglect.

Penalty on
employee.

(4) Every employee of the company who neglects to comply with this section shall for each offence incur a like penalty.

Exception.

(5) This section shall not apply to trains approaching such a crossing within the limits of a city or town where a municipal by-law is in force prohibiting the sounding of the whistle or gong or the ringing of the bell. 3-4 Geo. V. c. 36, s. 155.

Signal at
rail-level
crossings.

156.—(1) No train shall pass over any crossing where two main lines of railway or the main tracks of any branch lines cross each other at rail-level, whether they are owned by different companies or the same company, until a proper signal has been received by the conductor, engineer or motorman in charge of such train, engine or motor car from a competent person or watchman in charge of such crossing that the way is clear.

Electric
railway
crossings.

(2) In the case of an electric car crossing any railway track at rail-level, if there is no competent person or watchman in charge of the crossing, it shall be the duty of the conductor, before crossing and before giving the signal to the motorman that the way is clear and to proceed, to go forward and see that the track to be crossed is clear.

Stoppage
of trains
at rail-level
crossings.

(3) Every train shall, before it passes over any such crossing, be brought to a full stop; but whenever there is in use at any such crossing an interlocking switch and signal system or other device which, in the opinion of the Board, renders it safe to permit trains to pass over such crossing without being brought to a stop the Board may, by order, permit such trains to pass over such crossing without stopping under such regulations as to speed and other matters, as the Board deems proper.

Where
safety
devices are
installed.

(4) Nothing in this section shall apply to a case in which the Board of Railway Commissioners for Canada has jurisdiction to make an order and has made an order for the protection of such crossing. 3-4 Geo. V. c. 36, s. 156.

Where
Dominion
Board has
made order.

Rate of
speed in
unfenced
portions
of cities.

157.—(1) No train shall pass in or through any thickly peopled portion of any city, town or village at a speed greater than ten miles an hour, unless the track is fenced or properly protected in the manner prescribed by this Act, or unless permission is given by some regulation or order of the Board.

Board may
limit.

(2) The Board may limit such speed in any case to any rate which it deems expedient.

(3) Subject to the provisions of subsection 5 of this section no train shall pass over any highway crossing at rail-level in any thickly peopled portion of any city, town or village at a greater speed than ten miles an hour, unless such crossing is constructed and thereafter maintained and protected in accordance with the orders, regulations and directions of the Board in force with respect to such crossing, or unless permission is given by some regulation or order of the Board.

Rate of speed at rail-level crossings in cities, towns and villages.

(4) The Board may from time to time fix the speed in any case at any rate that it deems proper.

Board may direct.

(5) No train shall pass over any highway crossing at rail-level at a greater speed than ten miles an hour, if at such crossing an accident has happened subsequent to the first day of January, 1905, by a moving train causing bodily injury or death to a person using such crossing, unless and until such crossing is protected to the satisfaction of the Board; and no train shall pass over any highway crossing at rail-level at a greater speed than ten miles an hour in respect of which crossing an order of the Board has been made to provide protection for the safety and convenience of the public and which order has not been complied with.

Rate of speed at certain crossings.

3-4 Geo. V. c. 36, s. 157.

158.—(1) Whenever in any city, town or village any train is passing over or along a highway at rail-level, and is not headed by an engine or electric car moving forward in the ordinary manner, the company shall station on that part of the train, or of the tender if that is in front, which is then foremost a person who shall warn persons standing on, or crossing, or about to cross, the track of such railway.

Trains or cars moving reversely in cities, etc.

(2) For every contravention of any of the provisions of this section, or of any of the next preceding three sections, the company shall incur a penalty of \$100, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 158.

Penalty.

Rev. Stat. c. 90.

159.—(1) Whenever any railway crosses any highway at rail-level the company shall not, nor shall its officers, agents or employees, wilfully permit any engine, tender or car, or any portion thereof, to stand on any part of such highway for a longer period than five minutes at one time, or in shutting to obstruct public traffic for a longer period than five minutes at any one time, or for any less period which the Board may prescribe.

Trains must not stand on rail-level crossings more than five minutes.

(2) For every contravention of this section every such officer, agent or employee who has directly under or subject to his control, management or direction any engine, tender or car which, or any portion of which, is allowed to stand on such highway longer than the time specified in this section shall incur a penalty not exceeding \$50, recoverable under *The Ontario Summary Convictions Act*, and the company shall

Penalty.

Where violation excusable.

Rev. Stat. c. 90

also for each such violation incur a like penalty, but if such alleged violation is, in the opinion of the justice, excusable the prosecution for the penalty may be dismissed, and the costs shall be in his discretion. 3-4 Geo. V. c. 36, s. 159.

Sleeping and Parlour Cars.

Sleeping
and parlour
cars.

160.—(1) The company may contract with any person for the hauling, by the special or regular trains of the company, of the parlour, drawing-room or sleeping cars of such person in which extra accommodation is furnished.

May charge
for extra
accommoda-
tion.

(2) Such person may charge for the carriage and transportation of persons and property therein such reasonable compensation as may be fixed by the Board for such extra accommodation, in addition to the fare and charges for the carriage and transportation of passengers and property in the ordinary cars of the company.

Liability of
company.

(3) The company so contracting shall be liable in the same way and to the same extent as if the cars were owned by it.

Other obli-
gations not
affected.

(4) Nothing in this section shall relieve the company from the obligation to furnish sufficient ordinary cars for the reasonable accommodation of the travelling public. 3-4 Geo. V. c. 36, s. 160.

Stations.

Stations.

161.—(1) The company shall, when thereto directed by order of the Board, maintain and operate stations, with such accommodation or facilities in connection therewith as are defined by the Board, at such points on the railway as are designated in such order.

Accommoda-
tion.

(2) Every station of the company shall be erected, operated and maintained with good and sufficient accommodation and facilities for traffic.

Approval of
location
by Board.

(3) Before the company proceeds to erect any station upon its railway the location of such station shall be approved of by the Board.

No discon-
tinuance
without
leave.

(4) No station established by a company for the reception or delivery of passengers or property, or both, shall be discontinued without the consent of the Board.

Order by
Board upon
complaint as to
station
accommoda-
tion, etc.

(5) Upon the written complaint of ten or more persons interested setting forth that any of the provisions of this Act as to station accommodation or stopping places are being violated by the company, the Board shall forthwith investigate the complaint, and if, upon such investigation, it is found that such violation exists the Board shall issue an order to the company setting forth the nature of the improvements required and shall direct that the same be completed within such time as the Board may deem proper.

(6) Every person aggrieved by any neglect or refusal in the premises shall, subject to this Act, have an action therefor against the company from which the company shall not be relieved by any notice, condition or declaration or any agreement to the contrary if the damage arises from any negligence or omission of the company or of its servants. 3-4 Geo. V. c. 36, s. 161. Right of action.

MUNICIPAL BONUSES.

162.—(1) Where a municipal corporation grants a bonus or makes a gift to the company to the amount of \$20,000 or upwards, or holds stock in the company to that amount, the head of the municipality shall be *ex-officio* one of the directors of the company, in addition to the number of directors authorized by the special Act, and shall have the same rights, powers and duties as any of the directors of the company. When head of municipality to be *ex-officio* a director.

(2) A municipal corporation owning or having a controlling interest in the capital stock of a railway, electric railway, street railway or incline railway shall not dispose of the railway or its stock so as to deprive it of such controlling interest except under the authority of a by-law passed with the assent of the municipal electors in accordance with the provisions of *The Municipal Act*. 3-4 Geo. V. c. 36, s. 162. Municipal corporation not to part with control without assent of electors.
Rev. Stat. c. 192.

BY-LAWS, RULES AND REGULATIONS.

163. The company may, subject to the provisions and restrictions in this and in the special Act, make by-laws, rules or regulations respecting Powers of company respecting—

- (a) the mode by which, and the speed at which, any rolling stock used on the railway is to be moved; Speed.
- (b) the hours of the arrival and departure of trains; Timetables.
- (c) the loading and unloading of cars, and the weights which they are respectively to carry; Loads.
- (d) the receipt and delivery of traffic; Freight regulations.
- (e) the smoking of tobacco, expectorating, and the commission of any nuisance in or upon trains, stations or other premises occupied by the company; Nuisances.
- (f) the travelling upon or the using or working of the railway; Traffic and operation.
- (g) the employment and conduct of the officers and employees of the company; Conduct.
- (h) the due management of the affairs of the company; Management.

Passengers.

- (i) the number of passengers to be allowed in cars, their mode of entrance or exit, and the portion of the car or the class of car to be occupied by them. 3-4 Geo. V. c. 36, s. 163.

Penalty for violation of by-laws.

164. The company may, for the better enforcing the observance of any such by-law, rule or regulation, prescribe a penalty not exceeding \$25 for any contravention thereof by an officer or employee of the company, but no such penalty shall be recoverable except under *The Ontario Summary Convictions Act* which shall apply to proceedings for the recovery thereof. 3-4 Geo. V. c. 36, s. 164.

Rev. Stat. c. 90.

Essentials to validity.

165. All by-laws, rules and regulations, whether made by the directors or the company, shall be reduced to writing, be signed by the chairman or person presiding at the meeting at which they are adopted, have affixed thereto the common seal of the company and be kept in the office of the company. 3-4 Geo. V. c. 36, s. 165.

When approval of Board required.

166. All such by-laws, rules and regulations, except such as are of a private or domestic nature and do not affect the public generally or impose penalties, shall be submitted to the Board for approval, and the Board may approve of them or any of them, or any part thereof, and may, from time to time, rescind its approval, and until so approved, or after such approval has been rescinded, no such by-law, rule or regulation shall have any force or effect. 3-4 Geo. V. c. 36, s. 166.

Binding when approved.

167. Such by-laws, rules and regulations while so approved shall be binding upon, and observed by, all persons, and shall be sufficient to justify all persons acting thereunder. 3-4 Geo. V. c. 36, s. 167.

Publication of by-laws, etc., as regards public.

168.—(1) A printed copy of so much of any by-law, rule or regulation as affects any person, other than the shareholders, or the officers or employees of the company, shall be openly affixed and kept affixed to a conspicuous part of every station belonging to the company, so as to give public notice thereof to the persons interested therein or affected thereby.

As regards officers or employees.

(2) A printed copy of so much of any by-law, rule or regulation as relates to the conduct of or affects the officers or employees of the company shall be given to every officer and employee of the company thereby affected. 3-4 Geo. V. c. 36, s. 168.

Summary interference in certain cases.

169. If the contravention or non-observance of any by-law, rule or regulation is attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the railway, the company may summarily interfere, using reasonable force, if necessary, to prevent such violation, or

to enforce observance, without prejudice to any penalty incurred in respect of such violation or non-observance. 3-4 Geo. V. c. 36, s. 169.

170. A copy of any by-law, rule or regulation, certified as correct by the president, secretary or other executive officer of the company and bearing the seal of the company, shall be evidence thereof in any court. 3-4 Geo. V. c. 36, s. 170. Evidence of by-laws.

171. Every written or printed document purporting to have been issued or authorized by a company, or any officer, agent or employee of a company, or any other person or company for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of such document by the company, and of the contents thereof, without any further proof than the mere production of such document. 3-4 Geo. V. c. 36, s. 171. Of documents authorized.

172. All by-laws, rules and regulations of a company operating its railway by electricity partly or wholly on a highway or of a street railway company shall be subject to any agreement between such company and the municipal corporation owning or maintaining such highway. 3-4 Geo. V. c. 36, s. 172. By-laws, etc., to be subject to agreements with municipalities.

INSPECTION OF RAILWAYS.

Inspecting Engineers.

173.—(1) Inspecting engineers may be appointed by the Board, subject to the approval of the Lieutenant-Governor in Council. Appointment of inspecting engineers.

(2) It shall be the duty of every such inspecting engineer, upon being directed by the Board, to inspect any railway or any branch line, siding or portion thereof whether constructed or in the course of construction, to examine the stations, rolling stock, rails, road bed, right of way, tracks, bridges, tunnels, trestles, viaducts, drainage, culverts, railway crossings and junctions, highway and farm crossings, fences, gates and cattle-guards, telegraph, telephone, or power or other lines of electricity, and all other buildings, works, structures, equipment, apparatus, and appliances thereon, or to be constructed or used thereon, or such part thereof as the Board may direct, and forthwith to report fully thereon in writing to the Board. Duties.

(3) Every such inspecting engineer shall have the same powers with regard to any such inspection as by section 53 of *The Ontario Railway and Municipal Board Act* are conferred on an inspecting engineer. Powers. Rev. Stat. c. 186.

(4) Every company, and the officers and directors thereof, shall afford to any inspecting engineer such information as is within their knowledge and power in all matters inquired Duties of company to afford information.

into by him, and shall submit to him all plans, specifications, drawings and documents relating to the construction, repair or state of repair of the railway or any portion thereof.

Inspecting engineers may travel free.

Use telegraph and telephone wires, etc.

Transmission of telegrams or telephone.

Penalty upon failure. Rev. Stat. c. 90.

Proof of engineer's authority.

Penalty for obstructing inspecting engineers. Rev. Stat. c. 90.

(5) Every such inspecting engineer shall have the right, while engaged in the business of such inspection, to travel without charge on any of the ordinary passenger trains running on the railway, and to use without charge the telegraph and telephone wires and machinery in the offices of, or under the control of, any such company.

(6) The operators or officers employed in the telegraph or telephone offices of or under the control of the company shall, without unnecessary delay, obey all orders of any such inspecting engineer for transmitting messages; and every such operator or officer who neglects or refuses so to do shall, for every such offence, incur a penalty of not exceeding \$40, recoverable under *The Ontario Summary Convictions Act*.

(7) The production of his appointment in writing, signed by the Chairman of the Board, or the secretary, shall be sufficient evidence of the authority of such inspecting engineer.

(8) Every person who wilfully obstructs any inspecting engineer in the execution of his duty shall incur a penalty not exceeding \$40, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 173.

Inspection of Line.

Leave of Board before opening.

174.—(1) No railway, nor any portion of a railway, shall be opened for the carriage of traffic, other than for the purposes of the construction of the railway by the company, until leave therefor has been obtained from the Board as hereinafter provided.

Application to Board and material.

(2) When the company is desirous of so opening its railway, or any portion thereof, it shall make an application to the Board for authority therefor, supported by affidavit of its president, secretary, engineer or one of its directors, to the satisfaction of the Board, stating that such railway, or portion thereof, is, in his opinion, sufficiently completed for the safe carriage of traffic and ready for inspection.

Inspection.

(3) Before granting such application the Board shall direct an inspecting engineer to examine the railway, or portion thereof, proposed to be opened.

Order of Board when opening reported to be safe.

(4) If the inspecting engineer reports to the Board, after making such examination, that, in his opinion, the opening of the railway or portion thereof for the carriage of traffic will be reasonably free from danger to the public using the same, the Board may make an order granting such application, in whole or in part, and may name the time therein for the opening of the railway or such portion thereof, and there-

upon the railway or such portion thereof as is authorized by the Board may be opened for traffic in accordance with such order.

(5) If the inspecting engineer reports to the Board that, in his opinion, the opening of the railway or portion thereof would be attended with danger to the public using the same, by reason of the incompleteness of the works or permanent way, or the insufficiency of the construction or equipment of such railway or portion thereof, he shall state in his report the grounds for such opinion, and the company shall be entitled to notice thereof, and shall be served with a copy of such report, and the Board may refuse such application, in whole or in part, or may direct a further or other inspection and report to be made.

When opening reported dangerous.

Notice to be served on company.

(6) If thereafter, upon such further or other inspection or upon a new application under this section, the inspecting engineer reports that such railway or portion thereof may be opened without danger to the public the Board may make an order granting such application in whole or in part, and may name the time therein for the opening of the railway or such portion thereof, and thereupon the railway or such portion thereof as is authorized by the Board may be opened for traffic in accordance with such order.

Provision for further inspection.

Order for opening.

(7) The Board, upon being satisfied that public convenience will be served thereby, may, after obtaining a report of an inspecting engineer, allow the company to carry freight traffic over any portion of the railway not opened for the carriage of traffic in accordance with the preceding provisions of this section.

Leave to carry freight traffic.

(8) If any railway or portion thereof is opened contrary to the provisions of this section the company, or person to whom such railway belongs, shall forfeit to His Majesty the sum of \$200 for each day on which the railway or portion thereof is or continues open without such leave. 3-4 Geo. V. c. 36, s. 174.

Penalty for irregular opening.

175.—(1) Whenever any complaint is made to the Board, or the Board receives information, that any railway or any portion thereof is dangerous to the public using the same from want of renewal or repair, or insufficient or erroneous construction, or from any other cause, or whenever circumstances arise which, in its opinion, render it expedient the Board may direct an inspecting engineer to examine the railway or any portion thereof.

When railway out of repair.

Inspection.

(2) The Board may, upon the report of the inspecting engineer, order any repairs, renewal, reconstruction, alteration or new work, materials or equipment to be made, done, or furnished by the company upon, in addition to or substitution for any portion of the railway which may, from such report, appear to the Board necessary or proper, and may

Board may order repairs.

May enjoin
operation
meantime.

order that until such repairs, renewals, reconstruction, alteration, and work, materials or equipment are made, done and furnished to its satisfaction no portion of the railway, in respect of which such order is made, shall be used, or used otherwise than subject to such restrictions, conditions and terms as the Board may in such order impose.

Rolling
stock may
be con-
demned.

(3) The Board may, by such order, condemn and thereby forbid further use of any rolling stock which, from such report, it may consider unfit to repair or use.

Penalty for
non-com-
pliance.

(4) If, after notice of any such order made by the Board, the company uses any rolling stock which has been so condemned by the Board, or disobeys, or fails to comply with any order of the Board made under this section, the company shall incur a penalty of \$2,000.

Aiding and
abetting.

(5) Any person wilfully and knowingly aiding or abetting any such contravention shall incur a penalty of not less than \$20 nor more than \$200, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 175.

Rev. Stat. c. 90.

Inspecting
engineer
may forbid
operation.

176.—(1) If, in the opinion of any inspecting engineer, it is dangerous for trains to pass over any railway or any portion thereof until alterations, substitutions or repairs are made thereon, or that any of the rolling stock should be run or used, he may, by notice in writing,

(a) forthwith forbid the running of any train over such railway or portion of railway; or,

(b) require that the same be run only at such times, under such conditions and with such precautions as he by such notice specifies; and

(c) forbid the running or using of any such rolling stock.

What notice
shall state.

(2) Such notice shall state the reasons for such opinion of the inspecting engineer, and distinctly point out the defects or the nature of the danger to be apprehended.

Service of
notice.

(3) The notice may be served upon the company owning running, or using such railway or rolling stock, or upon any officer having the management or control of the running of trains upon the railway, or the management or control of the rolling stock.

Action of
Board.

(4) The inspecting engineer shall forthwith report such notice to the Board, which may either confirm, modify or disallow the act or order of such engineer.

Notice
thereof.

(5) Notice of such confirmation, modification or disallowance shall be duly given to the company.

Penalty for
non-com-
pliance.

(6) If any company refuses or neglects to comply with any order of the Board, made under this section, the com-

pany shall, for each such refusal or neglect, forfeit to His Majesty the sum of \$2,000.

(7) Any person wilfully and knowingly aiding or abetting any such disobedience or non-compliance shall incur a penalty of not less than \$20 or more than \$200, recoverable under *The Ontario Summary Convictions Act*. Aiding or abetting.
Rev. Stat. c. 90.

(8) No prosecution for any penalty under this section shall be instituted without the authority of the Board. No prosecution without leave of Board.
3-4 Geo. V. c. 36, s. 176.

TOLLS.

By-laws as to.

177.—(1) The company or the directors of the company by by-law, or any officer of the company thereunto authorized by by-law of the company or directors, may from time to time prepare and issue tariffs of the tolls to be charged, in respect of the railway owned or operated by the company, and may specify the persons to whom, the place where, and the manner in which such tolls shall be paid. By-laws authorizing tariffs of tolls.

(2) The tolls may be either for the whole or any particular portion of the railway. For whole or part.

(3) All such by-laws and tariffs shall be submitted to the Board for approval. Approval by Board.

(4) The Board may approve such by-laws and tariffs in whole or in part, or may change, alter or vary any of the provisions therein. In whole or in part or as varied.

(5) No tolls shall be charged by the company or by any person in respect of a railway or any traffic thereon until a by-law authorizing the preparation and issue of tariffs of such tolls has been approved by the Board, nor, unless otherwise authorized by this Act, until a tariff of such tolls has been filed with, and, where such approval is required under this Act, approved by the Board; nor shall any tolls be charged under any tariff or portion thereof disallowed by the Board; nor shall the company charge, levy or collect any toll or money for any service as a common carrier, except under the provisions of this Act. No tolls to be charged until by-law approved by Board.

(6) The Board may, with respect to any tariff of tolls other than the passenger and freight tariffs in this Act hereinafter mentioned, make regulations fixing and determining the time when, the place where, and the manner in which the tariff shall be filed, published and kept open for public inspection. 3-4 Geo. V. c. 36, s. 177. Regulations of Board as to publication of tariffs.

Express Tolls.

178.—(1) All express tolls shall be subject to the approval of the Board. Approval of express tolls.

Disallowance
of express
tolls.

(2) The Board may disallow any express tariff or any portion thereof which it considers unjust or unreasonable and shall have and may exercise all the powers with respect to express tolls and such tariffs as it has or may exercise under this Act with respect to freight tolls and freight tariffs; and all the provisions of this Act relating to freight tolls and freight tariffs, in so far as such provisions are applicable and not inconsistent with the provisions of this section and the five next following sections, shall apply to express tolls and tariffs. 3-4 Geo. V. c. 36, s. 178.

Tariff of
express tolls.

179. Tariffs of such express tolls shall be filed with the Board and shall be in such form, size and style and give such information, particulars and details as the Board, from time to time, by regulation or by order in any particular case prescribes. 3-4 Geo. V. c. 36, s. 179.

Goods not
to be carried
by express
unless tariff
in force.

180. No company shall carry or transport any goods by express, unless and until the tariff of express tolls therefor or in connection therewith has been submitted to and filed with the Board in the manner hereinbefore provided; or, in the case of competitive tariffs, unless such tariffs are filed in accordance with the rules and regulations of the Board made in relation thereto, or in any case where the express toll applicable to such carriage or transport has been disallowed by the Board. 3-4 Geo. V. c. 36, s. 180.

And tolls
not to be
charged in
such case.

181. No express toll shall be charged in respect of which there is default in such filing, or which is disallowed by the Board. 3-4 Geo. V. c. 36, s. 181.

Board may
define
carriage by
express.

182. The Board may, by regulation prescribe or in any particular case, determine what is carriage or transportation of goods by express, or whether goods are carried or transported by express within the meaning of this Act. 3-4 Geo. V. c. 36, s. 182.

Conditions
limiting
liability to
be approved
by Board.

183.—(1) No contract, condition, by-law, regulation, declaration or notice made or given by any company or any person or corporation charging express tolls impairing, restricting or limiting the liability of such company, person or corporation with respect to the collecting, receiving, carrying for or handling of any goods for the purpose of sending, carrying or transporting them by express, or for or in connection with the sending, carrying, transporting or delivery by express of any goods, shall have any force or effect unless first approved by order or regulation of the Board.

Regulation
of carriage
by express.

(2) The Board may in any case or by regulation

(a) determine the extent to which the liability of such company, person or corporation may be so impaired, restricted or limited; and

- (b) prescribe the terms and conditions under which goods may be collected, received, cared for or handled for the purpose of sending, carrying or transporting them by express, or under which goods may be sent, carried, transported or delivered by express by any such company, person or corporation. 3-4 Geo. V. c. 36, s. 183.

184.—(1) Every company and every person and corporation charging express tolls shall make to the Board an annual return of its capital, business and working expenditure, and such other information and particulars, including a statement of unclaimed goods. Annual return by company.

(2) Such return shall be made in such form, covering such period, and at such time, and shall be published in such manner as the Board from time to time directs. 3-4 Geo. V. c. 36, s. 184. Form, etc., of return.

185. Every company which carries or transports, and every officer or employee thereof who directs or knowingly permits to be carried or transported, any goods by express. Carrying by express without filing tariff, etc.

(a) unless and until the tariff of express tolls therefor or in connection therewith has been submitted to and filed with the Board in the manner required by this Act; or,

(b) in the case of competitive tariffs, unless such tariffs are filed in accordance with the rules and regulations of the Board made in relation thereto; or,

(c) in any case where the express toll applicable to such carriage or transport has been disallowed by the Board,

shall be liable to a penalty not exceeding \$100 for each such offence. 3-4 Geo. V. c. 36, s. 185. Penalty.

Collection of Tolls.

186.—(1) If the company pays the charges to which any goods which come into its possession are subject the company shall have the same lien for the amount thereof upon such goods as the person to whom such charges were originally due, and shall be subrogated in respect of such charges to his rights and remedies. Collecting back charges on goods.

(2) In case of refusal or neglect of payment on demand of any charges or any lawful tolls, or any part thereof, the same shall be recoverable in any court of competent jurisdiction. Proceedings for recovery.

(3) The company may, instead of proceeding by action for the recovery of such tolls, seize the goods for or in Seizure and detention of goods.

respect whereof such tolls are payable, and may detain the same until payment thereof, and in the meantime such goods shall be at the risk of the owners thereof.

Sale of
goods to
recover tolls.

(4) If the tolls are not paid within six weeks, and where the goods are perishable goods, if the tolls are not paid upon demand or if such goods are liable to perish while in the possession of the company by reason of delay in payment or taking delivery by the consignee, the company may advertise and sell the whole or any part of such goods, and out of the money arising from such sale retain the tolls payable and all reasonable charges and expenses of such seizure, detention and sale.

Surplus,
applica-
tion of.

(5) The company shall pay or deliver the surplus, if any, or such of the goods as remain unsold to the person entitled thereto.

Unclaimed
goods.

(6) If any goods remain in the possession of the company unclaimed for the space of twelve months the company may thereafter, and on giving public notice thereof by advertisement for six weeks in the *Ontario Gazette* and in such newspapers as it deems necessary, sell such goods by public auction at a time and place which shall be mentioned in such advertisement, and out of the proceeds thereof pay such tolls and all reasonable charges for storing, advertising and selling such goods.

Payment
of balance.

(7) The balance of the proceeds, if any, shall be kept by the company for a further period of three months to be paid over to any person entitled thereto.

When
Province
entitled.

(8) In default of such balance being claimed before the expiration of the period last aforesaid the same shall be paid over to the Treasurer of Ontario to be applied to the general purposes of the Province.

Discrimina-
tion pro-
hibited.

(9) Such balance may be claimed by the person entitled thereto within six years of the date of such payment.
3-4 Geo. V. c. 36, s. 186.

Equality.

Limitation
of claims.

187.—(1) All such tolls shall always, under substantially similar circumstances and conditions in respect of all traffic of the same description and carried in or upon a like kind of cars passing over the same portion of the line of railway, be charged equally to all persons and at the same rate, whether by weight, mileage or otherwise.

Idem.

(2) No reduction or advance in any such tolls shall be made, either directly or indirectly, in favour of or against any particular person or company travelling upon or using the railway.

(3) The tolls for larger quantities, greater numbers or longer distances may be proportionately less than the tolls for smaller quantities or numbers, or shorter distances, if such tolls are, under substantially similar circumstances, charged equally to all persons. Proportionate decrease in tolls in certain cases.

(4) The company may make uniform special rates for the carriage of fruit, milk and other perishable products and commodities. Special rates for perishable goods.

(5) No toll shall be charged which unjustly discriminates between different localities. Unjust discrimination.

(6) The Board shall not approve or allow any toll which, for the like description of goods or for passengers carried under substantially similar circumstances and conditions in the same direction over the same line, is greater for a shorter than for a longer distance, within which such shorter distance is included, unless the Board is satisfied that, owing to competition, it is expedient to allow such toll. Long and short haul clause.

(7) The Board may declare that any places are competitive points within the meaning of this Act. Competitive points.

(8) No company shall, without leave therefor having been obtained from the Board, except in accordance with the provisions of this Act, directly or indirectly, pool its freights or tolls with the freights or tolls of any other railway company or common carrier, or divide its earnings or any portion thereof with any other railway company or common carrier, or enter into any contract, arrangement, agreement, or combination to effect, or which may effect, any such result. Pooling prohibited.

3-4 Geo. V. c. 36, s. 187.

Freight Classification and Tariffs.

188.—(1) The tariff of tolls for freight traffic shall be subject to and governed by that classification which the Board may prescribe or authorize, and the Board shall endeavour to have such classification uniform throughout Ontario as far as may be, having due regard to all proper interests. Tariff of tolls subject to classification by Board.

(2) The Board may make any special regulations, terms and conditions in connection with such classification, and as to the carriage of any particular commodity or commodities mentioned therein, as to it may seem expedient. Special terms and conditions.

(3) The company may, from time to time, with the approval of the Board, and shall, when so directed by the Board, place any goods specified by the Board in any stated class, or remove them from any one class to any other, higher or lower class; but no goods shall be removed from a lower to a higher class until such notice as the Board determines has been given in the *Ontario Gazette*. 3-4 Geo. V. c. 36, s. 188. Changes of class.

Form and
particulars.

189. All tariff by-laws and tariffs of tolls shall be in such form, size and style, and give such information, particulars and details as the Board may, by regulation or in any case, prescribe. 3-4 Geo. V. c. 36, s. 189.

Disallow-
ance.

190.—(1) The Board may disallow any tariff or any portion thereof which it considers to be unjust or unreasonable, or contrary to any of the provisions of this Act, and may require the company, within a prescribed time, to substitute a tariff satisfactory to the Board in lieu thereof, or may prescribe other tolls in lieu of the tolls so disallowed.

Substitution.

Commence-
ment.

(2) The Board may designate the date at which any tariff shall come into force.

Amendment.

(3) Any tariff in force, except standard tariffs hereinafter mentioned, may, subject to disallowance or change by the Board, be amended or supplemented by the company by tariffs in accordance with the provisions of this Act.

Consolida-
tion and
re-issue.

(4) When any tariff has been amended or supplemented from time to time the Board may order that a consolidation and reissue of such tariff be made by the company. 3-4 Geo. V. c. 36, s. 190.

Fraction of
a mile.

191.—(1) In all cases a fraction of a mile in the distance over which traffic is carried on the railway shall be considered as a whole mile.

Fraction of
five pounds
in weight.

(2) In estimating the weight of any goods in any one single shipment on which the toll amounts to more than the minimum, or "smalls" toll, any fraction of five pounds shall be waived by the company, and five or any fraction above five and up to ten pounds shall be deemed ten pounds.

Fraction of
five cents.

(3) In estimating the tolls to be charged in passenger tariffs, any fraction of five cents less than two and a half cents shall be waived by the company, and above two and a half cents and up to five cents shall be considered as five cents. 3-4 Geo. V. c. 36, s. 191.

Division of
freight
tariffs.

192. The tariffs of tolls which the company shall be authorized to issue under this Act for the carriage of goods between points on the railway shall be divided into three classes, namely:

Standard.

(a) The standard freight tariff;

Special.

(b) Special freight tariffs; and

Competitive.

(c) Competitive tariffs. 3-4 Geo. V. c. 36, s. 192.

What
standard
freight
tariff to
specify.

193.—(1) The standard freight tariff or tariffs, where the company is allowed by the Board more than one standard freight tariff, shall specify the maximum mileage tolls to be charged for each class of the freight classification for all distances covered by the company's railway.

(2) Such distances may be expressed in blocks or groups, ^{Distances.} and such blocks or groups may include relatively greater distances for the longer than for the shorter hauls.

(3) The special freight tariffs shall specify the toll or tolls, ^{What special freight tariffs to specify.} lower than in the standard freight tariff, to be charged by the company for any particular commodity or commodities, or for each or any class or classes of the freight classification, or to or from a certain point or points on the railway; and greater tolls shall not be charged therein for a shorter than for a longer distance over the same line in the same direction, if such shorter distance is included in the longer.

(4) The competitive tariffs shall specify the toll or tolls, ^{What competitive tariffs to specify.} lower than in the standard freight tariff, to be charged by the company for any class or classes of the freight classification, or for any commodity or commodities, to or from any specified point or points which the Board may deem or have declared to be competitive points not subject to the long and short haul clause under the provisions of this Act. 3-4 Geo. V. c. 36, s. 193.

194.—(1) Every standard freight tariff shall be filed with the Board and shall be subject to the approval of the Board. ^{Standard freight tariff.}

(2) Upon any such tariff being filed and approved by the Board the company shall publish the same, with a notice of such approval, in such form as the Board directs in at least two consecutive weekly issues of the *Ontario Gazette*. ^{Filing. Approval. Publication.}

(3) When the provisions of this section have been complied with the tolls as specified in the standard freight tariff or tariffs, as the case may be, shall, except in the cases of special freight and competitive tariffs, be the only tolls which the company is authorized to charge for the carriage of goods. ^{Tolls specified to be the only lawful tolls.}

(4) Until the provisions of this section have been complied with no toll for the carriage or transport of goods shall be charged by the company. 3-4 Geo. V. c. 36, s. 194. ^{No toll until compliance.}

195.—(1) All special freight tariffs shall be filed by the company with the Board, and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect. ^{Special freight tariffs.}

(2) When any such special freight tariff reduces any toll previously authorized to be charged under this Act, the company shall, for three days previous to the date on which such tariff is intended to take effect, deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of such tariff, at every station or office of the company where freight is received, or to which freight is to be carried thereunder, and also post up in a prominent place, at each such office or station, a notice in large type directing public attention to the place in such office or station where such tariff is so kept on file, but the Board ^{If tolls previously in force are reduced. Notice.}

may, by regulation or otherwise, determine and prescribe any other or additional method of publication of the tariff during such period.

If previous
tolls
advanced.

(3) When any such special freight tariff advances any toll previously authorized to be charged under this Act the company shall in like manner file and publish such tariff thirty days previously to the date on which such tariff is intended to take effect.

Effect of
filing.

(4) Upon any such special freight tariff being so filed and published the company shall, until such tariff is superseded or is disallowed by the Board, charge the toll or tolls as specified therein; and such special freight tariff shall supersede any preceding tariff or tariffs, or any portion or portions thereof, so far as it reduces or advances the tolls therein. 3-4 Geo. V. c. 36, s. 195.

Competitive
tariffs.

196.—(1) Competitive tariffs shall be filed by the company with the Board, and every such tariff shall specify the date of the issue thereof and the date on which it is intended to take effect.

Filing.

(2) Where it may be necessary to meet the exigencies of competition, or as the Board may deem expedient, the Board may make rules and regulations governing the filing or publication of such tariffs, and may provide that any such tariffs may be acted upon and put in operation immediately upon the issue thereof by the company before they have been filed with the Board. 3-4 Geo. V. c. 36, s. 196.

Division of
passenger
tariffs.

197.—(1) The tariffs of tolls which the company shall be authorized to issue under this Act for the carriage of passengers between points on the railway shall be divided into two classes, namely:

Standard.

(a) The standard passenger tariff; and,

Special.

(b) Special passenger tariffs.

What
standard
passenger
tariff shall
specify.

(2) The standard passenger tariff shall specify the maximum mileage tolls to be charged for passengers for all distances covered by the company's railway, and such distances may be expressed in like manner as provided herein in respect of standard freight tariffs.

What special
passenger
tariffs shall
specify.

(3) Special passenger tariffs shall specify the toll or tolls to be charged by the company for passengers, in every case where such tolls are lower than the tolls specified in the company's standard passenger tariff. 3-4 Geo. V. c. 36, s. 197.

Standard
passenger
tariff.

198.—(1) A standard passenger tariff shall be filed, approved and published in the same manner as required by this Act in the case of a standard freight tariff.

No toll
until com-
pliance.

(2) Until the company files its standard passenger tariff and such tariff is so approved and published in the *Ontario*

Gazette no tolls for the carriage of passengers shall be charged by the company.

(3) When the provisions of this section have been complied with the tolls in the standard passenger tariff shall, except in the case of special passenger tariffs, be the only tolls which the company is authorized to charge for the carriage of passengers. 3-4 Geo. V. c. 36, s. 198.

199.—(1) The company shall file all special passenger tariffs with the Board and shall, for three days previous to the date on which any such tariff is intended to take effect, deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of each such tariff at every station or office of the company where passengers are received for carriage thereunder, and also post up in a prominent place at each such office or station a notice in large type directing public attention to the place in such office or station where such tariff is so kept on file, but the Board may, owing to the exigencies of competition or otherwise, notwithstanding anything in this section, determine the time or manner within and according to which publication of any such tariff is to be made.

(2) The date of the issue and the date on which, and the period, if any, during which any such tariff is intended to take effect shall be specified therein.

(3) Upon any such tariff being so duly filed the company shall, until such tariff is superseded or is disallowed by the Board, charge the toll or tolls as specified therein, and such tariff shall supersede any preceding tariff or tariffs, or any portion or portions thereof, in so far as it reduces or advances the tolls therein.

(4) Until such tariff is so duly filed no such toll or tolls shall be charged by the company. 3-4 Geo. V. c. 36, s. 199.

200.—(1) Where traffic is to pass over any continuous route in Ontario operated by two or more companies the companies may agree upon a joint tariff for such continuous route, and the initial company shall file such joint tariff with the Board, and the other company or companies shall promptly notify the Board of its or their assent to and concurrence in such joint tariff.

(2) The names of the companies whose lines compose such continuous route shall be shown by such tariffs.

(3) If the company owns, charters, uses, maintains or works, or is a party to any arrangement for using, maintaining or working vessels for carrying traffic by water between any places or ports in Ontario, and if any such vessel carries traffic between a port in Ontario reached by such company and a port in Ontario reached by the railway of another com-

pany, the vessel and the railway of either company shall be deemed to constitute a continuous route in Ontario within the meaning of this section. 3-4 Geo. V. c. 36, s. 200.

Where
failure to
agree.

201.—(1) In the event of failure by such companies to agree upon any such joint tariff as provided in the last preceding section, the Board, on the application of any company or person desiring to forward traffic over any such continuous route, which the Board considers a reasonable and practicable route, or any portion thereof, may require such companies, within a prescribed time, to agree upon and file in like manner a joint tariff for such continuous route, satisfactory to the Board, or may, by order, determine the route, fix the toll or tolls and apportion the same among the companies interested, and may determine the date when the toll or tolls so fixed shall come into effect.

Board may
require.

Companies
to comply.

(2) Upon any such order being made the companies shall, as soon as possible, or within such time as the Board may require, file and publish a joint tariff in accordance with this Act and in accordance with such order.

Apportion
ment of
through
rate.

(3) In any case where there is a dispute between the companies interested as to the apportionment of a through rate in any joint tariff the Board may apportion such rate between such companies.

Power of
Board.

(4) The Board may decide that any proposed through rate is just and reasonable, notwithstanding that a less amount may be allotted to any company out of such through rate than the toll such company would otherwise be entitled to charge. 3-4 Geo. V. c. 36, s. 201.

Continuous
carriage.

202.—(1) No company shall, by any combination, contract or agreement, express or implied, or by other means or devices, prevent the carriage of goods from being continuous from the place of shipment to the place of destination.

Break in
bulk, etc.

(2) No break in bulk, stoppage or interruption made by such company shall prevent the carriage of goods from being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage, or to evade any of the provisions of this Act. 3-4 Geo. V. c. 36, s. 202.

Continuity.

Filing and
publication
of joint
tariffs.

203.—(1) Joint tariffs shall, as to the filing and publication thereof, be subject to the same provisions in this Act as are applicable to the filing and publication of local tariffs of a similar description; and, upon any such joint tariff being so duly filed with the Board, the company or companies shall, until such tariff is superseded or disallowed by the Board, charge the toll or tolls as specified therein; but the Board may

except from the provisions of this section the filing and publication of any or all passenger tariffs of foreign railway companies. ^{Exceptions.}

(2) The Board may require to be informed by the company of the proportion of the toll or tolls, in any joint tariff filed, which it or any other company is to receive or has received. 3-4 Geo. V. c. 36, s. 203. ^{Information which Board may require.}

204.—(1) The company shall deposit and keep on file in a convenient place, open for the inspection of the public during office hours, a copy of each of its tariffs at the following places respectively, ^{Where tariffs may be inspected.}

- (a) standard passenger and freight tariffs at every station or office of the company where passengers or freight respectively are received for carriage thereunder; ^{Standard tariffs.}
- (b) special passenger and freight tariffs at every station or office of the company where passengers or freight respectively are received for carriage thereunder, and, as to such freight tariffs, as soon as possible, at each of its stations or offices to which freight traffic is to be carried thereunder; ^{Special tariffs.}
- (c) competitive tariffs, at each freight station or office of the company where goods are to be received and delivered thereunder; ^{Competitive tariffs.}
- (d) joint tariffs for traffic passing over any continuous route in Ontario, operated by two or more companies, at each freight station or office where traffic is to be received, and at each freight station to which such tariffs extend. ^{Joint tariffs.}

(2) The company shall keep on file at its stations or offices, where freight is received and delivered, a copy of the freight classification, or classifications, in force upon the railway for inspection during business hours. ^{Freight classifications.}

(3) The company shall post up in a prominent place at each of its stations where passengers or freight, respectively, are received for carriage a notice in large type directing the public attention to the place in such station where the passenger or freight tariffs, respectively, are kept on file for public inspection during business hours, and the station agent or person in charge at such station shall produce to any applicant, on request, any particular tariff in use at that station which he may desire to inspect. ^{Notice to be posted at station or place where tariffs open to inspection.}

(4) Notwithstanding anything in this section, the Board may, in addition to or in substitution for the publication of any tariff required by this section, by regulation or otherwise, determine and prescribe the manner and form in which any such tariff shall be published or kept open by the company for public inspection. 3-4 Geo. V. c. 36, s. 204. ^{Power of Board as to publication of tariffs.}

Contraven-
tion of
orders, etc.

205. If any company or any director or officer thereof, or any receiver, trustee, lessee, agent or person, acting for or employed by such company, either alone or with any other company or person

- (a) wilfully does or causes to be done, or willingly suffers to be done, any act, matter or thing, contrary to any order, direction, decision or regulation of the Board made or given under this Act, in respect of tolls; or
- (b) wilfully omits or fails to do any act, matter or thing thereby required to be done; or
- (c) causes or willingly suffers or permits any act, matter or thing, so directed or required to be done, not to be so done; or
- (d) contravenes any such order, direction, decision or regulation or any of the provisions of this Act, in respect of tolls,

Penalty.

such company, director, officer, receiver, trustee, lessee, agent or person shall for each such offence incur a penalty of not less than \$100 nor more than \$1,000. 3-4 Geo. V. c. 36, s. 205.

False bill-
ing, etc.

206. Any company or any officer or agent thereof, or any person acting for or employed by such company, who, by means of false billing, false classification, false report of weight, or by any other device or means, knowingly, wilfully or willingly suffers or permits any person or persons to obtain transportation for goods at less than the required tolls then authorized and in force on the railway of the company, shall, for each offence, incur a penalty of not less than \$100 nor more than \$1,000. 3-4 Geo. V. c. 36, s. 206.

Penalty.

Idem.

207.—(1) Any person, or any officer or agent or any incorporated company, who shall deliver goods for transportation to such company, or for whom as consignor or consignee the company shall transport goods, who knowingly or wilfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other device or means, whether with or without the consent or connivance of the company, its agent or agents, obtains transportation for such goods at less than the regular tolls then authorized and in force on the railway shall, for each offence, incur a penalty of not less than \$100 nor more than \$1,000.

Penalty.

Further toll.

(2) The Board may make regulations providing that any such person or company shall, in addition to the regular toll, be liable to pay to the company a further toll not exceeding fifty per centum of the regular charge.

Opening of
packages.

(3) The company may, and when ordered by the Board shall, open and examine any package, box, case or shipment,

for the purpose of ascertaining whether this section has been violated. 3-4 Geo. V. c. 36, s. 207.

208. Any person or company, or any officer or agent of any company, Unjust discrimination.

- (a) who offers, grants, or gives, or solicits, accepts or receives any rebate, concession, or discrimination in respect of the transportation of any traffic by the company, whereby any such traffic is, by any device whatsoever, transported at a less rate than that named in the tariffs then in force; or
- (b) for whom the company or any of its officers or agents is by any such means induced to transport traffic, and thereby to discriminate unjustly in favour of any such person, company, officer or agent as against any other person or company; or,
- (c) who aids or abets the company in any unjust discrimination,

shall for each offence incur a penalty of not less than \$100 Penalty. nor more than \$1,000. 3-4 Geo. V. c. 36, s. 208.

209. If the company files with the Board any tariff and such tariff comes into force and is not disallowed by the Board under this Act, or if the company participates in any such tariff, any departure from the tolls in such tariff, while so in force, shall, on the part of such company, its officers, agents or employees, be an offence under this Act. 3-4 Geo. V. c. 36, s. 209. Departure from tolls in tariff.

Passenger Fares on Electric Roads.

210.—(1) Notwithstanding anything to the contrary contained in any agreement with a municipal or other corporation or person or in any special Act, Limit of fares on electric railways.

- (a) the fare to be taken by a company on a railway operated by electricity for each passenger shall not exceed five cents for any distance not exceeding three miles, and where the distance exceeds three miles shall not exceed two cents per mile or fraction thereof for the distance actually travelled; and in the case of children under ten years of age shall not exceed three cents for three miles or less, and where the distance exceeds three miles shall not exceed one cent per mile or fraction thereof for the distance actually travelled, but children in arms shall in all cases be carried free; Generally.
- (b) pupils under seventeen years of age actually attending school shall be entitled to purchase at any office of the company where tickets are sold on a Pupils' tickets.

certificate from their principal teacher that they are *bona fide* pupils attending school eight tickets for twenty-five cents, such ticket to be used only between the hours of eight o'clock and half-past nine in the forenoon, and between half-past three and five o'clock in the afternoon, and then only for the purpose of attending and returning from school, but no such ticket shall entitle any pupil to ride a greater distance than five miles.

Certain agreements not affected.

(2) This section shall not alter or vary any agreement by which the company is bound to charge a lower rate of fares for passengers than those mentioned in this section, or to supply a greater number of tickets to pupils attending school or to pupils of a lesser age or at different hours or for a greater distance than mentioned in this section.

Exception of companies operating in provincial parks.

(3) This section shall not apply to a company whose tariff for passenger fares is subject to the approval of any commissioners in whom are vested any park or land owned by the Crown for the use of the public. 3-4 Geo. V. c. 36, s. 210.

Traffic Facilities.

Facilities for traffic.

211.—(1) All companies shall, according to their respective powers, afford to all persons and companies all reasonable and proper facilities for the receiving, forwarding and delivering of traffic upon and from their several railways, for the interchange of traffic between their respective railways, and for the return of rolling stock.

Including through traffic.

(2) Such facilities to be so afforded shall include the due and reasonable receiving, forwarding and delivering by the company, at the request of any other company, of through traffic, and, in the case of goods shipped by car load, of the car with the goods shipped therein, to and from the railway of such other company, at a through rate; and also the due and reasonable receiving, forwarding and delivering by the company, at the request of any person interested in through traffic, of such traffic at through rates.

(3) No company shall

No undue preference.

(a) make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person or company, or any particular description of traffic, in any respect whatsoever;

Or discrimination.

(b) by any unreasonable delay or otherwise howsoever make any difference in treatment in the receiving, loading, forwarding, unloading or delivery of the goods of a similar character in favour of or against any particular person or company;

Or disadvantage.

(c) subject any particular person or company, or any particular description of traffic, to any undue or

unreasonable prejudice or disadvantage, in any respect whatsoever; or

- (d) so distribute or allot its freight cars as to discriminate unjustly against any locality or industry, or against any traffic which may originate on its railway destined to a point on another railway in Ontario with which it connects. Allotment of freight cars.

(4) Every company which has or works a railway forming part of a continuous line of railway with or which intersects any other railway, or which has any terminus, station or wharf near to any terminus, station or wharf of any other railway, shall afford all due and reasonable facilities for delivering to such other railway, or for receiving from and forwarding by its railway, all the traffic arriving by such other railway without any unreasonable delay, and without any such preference or advantage, or prejudice or disadvantage as aforesaid, and so that no obstruction is offered to the public desirous of using such railways as a continuous line of communication, and so that all reasonable accommodation, by means of the railways of the several companies, is, at all times, afforded to the public in that behalf. Connecting railway to afford reasonable facilities.

(5) The reasonable facilities which every railway company is required to afford under this section shall include reasonable facilities for the junction of private sidings or private branch railways with any railway belonging to or worked by any such company, and reasonable facilities for receiving, forwarding and delivering traffic upon and from those sidings or private branch railways. Including facilities for junction of private sidings, branches, etc.

(6) Every company which grants any facilities for the carriage of goods by express to any incorporated express company or person shall grant equal facilities, on equal terms and conditions, to any other incorporated express company which demands the same. Equal facilities in case of express companies.

(7) Any agreement made between any two or more companies contrary to this section shall be unlawful and null and void. 3-4 Geo. V. c. 36, s. 211. Agreements to the contrary void.

212.—(1) Where two or more electric street railway or radial railway systems, or a street railway system and a radial railway system owned or operated by the same or by different corporations, lie contiguous to one another each corporation shall afford to the other or others all reasonable facilities for the interchange of traffic and running rights over its lines. Interchange of traffic between contiguous, street or radial lines.

(2) The nature or extent of the facilities and running rights to be afforded, and the terms and conditions upon which they shall be exercised, shall be determined by the Board, and it shall be the duty of each corporation to conform to and obey any order of the Board made in the premises. Powers of Board.

When exercised.

(3) The order may be made on the application of any or either of the corporations or of a municipal corporation or person interested or of the Board's own motion.

Varying order.

(4) The Board may from time to time vary the terms of any order made under the preceding subsections as it may deem just.

Exercising powers where system not complete.

(5) The powers conferred on the Board may be exercised in respect of an electric street railway system which a corporation has authority to construct, the location and plans of which have been approved by the Board, notwithstanding that no part or that part only of the system has been constructed, and such powers may also be exercised notwithstanding that a corporation has the exclusive right to build and operate surface railways within the municipality or any part of it.

Or right is exclusive.

Interpretation. "Corporation."

(6) In this section "corporation" and "corporations" shall include a municipal corporation.

Extent of powers of Board.

(7) For the purposes of this section the Board shall have all the powers conferred by section 130.

Commencement section.

(8) This section shall not come into force until a day to be named by the Lieutenant-Governor by Proclamation. 3-4 Geo. V. c. 36, s. 212.

Burden of proof respecting unjust discrimination, etc.

213.—(1) Whenever it is shown that any company charges one person, company, or class of persons, or the persons in any locality, lower tolls for the same or similar goods, or lower tolls for the same or similar services, than it charges to other persons, companies, or classes of persons, or to the persons in another locality, or makes any difference in treatment in respect of such companies or persons, the burden of proving that such lower toll, or difference in treatment, does not amount to an undue preference or an unjust discrimination shall lie on the company.

What Board may consider in determining unjust discrimination, etc.

(2) In deciding whether a lower toll, or difference in treatment, does or does not amount to an undue preference or an unjust discrimination, the Board may consider whether such lower toll, or difference in treatment, is necessary for the purpose of securing, in the interest of the public the traffic in respect of which it is made, and whether such object cannot be attained without unduly reducing the higher tolls.

Apportionment of toll for carriage by land and water.

(3) In any case in which the toll charged by the company for carriage, partly by rail and partly by water, is expressed in a single sum, the Board, for the purpose of determining whether a toll charged is discriminatory or contrary in any way to the provisions of this Act, may require the company to declare forthwith to the Board, or may determine what portion of such single sum is charged in respect of the carriage by rail. 3-4 Geo. V. c. 36, s. 213.

214.—(1) The Board may determine, as questions of fact, whether or not traffic is or has been carried under substantially similar circumstances and conditions, and whether there has, in any case, been unjust discrimination, or undue or unreasonable preference or advantage, or prejudice or disadvantage, within the meaning of this Act, or whether in any case the company has, or has not, complied with the provisions of sections 187 and 211.

Power of Board to determine what are substantially similar circumstances, undue preferences, etc.

(2) The Board may by regulation declare what shall constitute substantially similar circumstances and conditions, or unjust or unreasonable preferences, advantages, prejudices, or disadvantages within the meaning of this Act, or what shall constitute compliance or non-compliance with the provisions of such sections.

Power to make regulations in that behalf.

(3) For the purposes of section 212 the Board may order that specific works be constructed or carried out, or that property be acquired, or that specified tolls be charged, or that cars, motive power or other equipment be allotted, distributed, used or moved as specified by the Board, or that any specified steps, systems, or methods be taken or followed by any particular company or companies, or by railway companies generally. 3-4 Geo. V. c. 36, s. 214.

Power to order specific works.

215. If the company files with the Board any tariff and such tariff comes into force and is not disallowed by the Board under this Act, or if the company participates in any such tariff, the tolls under such tariff while so in force shall, in any prosecution under this Act, as against such company, its officers, agents or employees, be conclusively deemed to be the lawful tolls chargeable by such company. 3-4 Geo. V. c. 36, s. 215.

Effect of tariff when filed.

Presumption against company.

General Provisions respecting Carriage.

216.—(1) No contract, condition, by-law, regulation, declaration or notice, made or given by the company, impairing, restricting, or limiting its liability in respect of the carriage of any traffic, shall, except as hereinafter provided, relieve the company from such liability, unless such class of contract, condition, by-law, regulation, declaration or notice shall have been first authorized or approved by order or regulation of the Board.

Effect of contracts, etc., impairing carriers' liability.

(2) The Board may, in any case or by regulation, determine the extent to which the liability of the company may be so impaired, restricted or limited.

Power of Board.

(3) The Board may, by regulation, prescribe the terms and conditions under which any traffic may be carried by the company. 3-4 Geo. V. c. 36, s. 216.

Terms may be prescribed.

217. Nothing in this Act shall be construed to prevent

Permission
for free or
reduced
traffic for
Government
and chari-
table pur-
poses, etc.

(a) the carriage, storage or handling of traffic, free or at reduced rates, for the Dominion, or for any provincial or municipal government, or for charitable purposes, or to or from fairs and exhibitions for exhibition thereat, or the carriage, free or at reduced rates, of destitute or homeless persons, transported by charitable societies, and the necessary agencies employed in such transportation;

Excursionists,
immigrants,
etc.

(b) the issuing of mileage, excursion or commutation passenger tickets, or the carriage at reduced rates of immigrants or settlers and their goods or effects, or any member of any organized association of commercial travellers with his baggage;

Officers,
employees,
members of
Parliament,
the press,
Interstate
Commerce
Commission.

(c) railways from giving free carriage or reduced rates to their own officers or employees, or their families, or to former employees of any railway, or for their goods and effects, or to members of the Senate and House of Commons of Canada or of the press, or to members of the Interstate Commerce Commission of the United States and the officers and staff of such commission, and for their baggage and equipment, or to such other persons as the Board may approve or permit.

Passes.

(d) the principal officers of any railway, or any railway or transportation company, from exchanging passes or free tickets with other railways, or railway or transportation companies, for their officers and employees and their families, or their goods and effects:

Power of
Board to
regulate
such traffic.

Provided that the carriage of traffic by the company under this section may, in any particular case, or by general regulation, be extended, restricted, limited or qualified by the Board. 3-4 Geo. V. c. 36, s. 217.

When special
rates allowed.

218.—(1) Notwithstanding anything in this Act the Board may make regulations permitting the company to issue special rate notices prescribing tolls lower than the tolls in force upon the railway to be charged for specific shipments between points upon the railway, not being competitive points, if it considers that the charging of the special tolls mentioned in any such notices will help to create trade, or develop the business of the company, or be in the public interest, and not otherwise contrary to the provisions of this Act.

Notice to
be filed
with Board.

(2) Every such special rate notice, or a duplicate copy thereof shall be filed with the Board, and shall exist merely for the purpose of giving effect to the special rate charged for the specific shipment mentioned therein. 3-4 Geo. V. c. 36, s. 218.

219. The company shall furnish free transportation upon any of its trains for members of the Assembly, with their baggage, and for the members of the Board, and for such officers and staff of the Board as the Board may determine, with their baggage and equipment, and shall also, when required, haul free of charge any car provided for the use of the Board. 3-4 Geo. V. c. 36, s. 219.

Members of
Legislature
and Board
to have free
transporta-
tion.

RAILWAY CONSTABLES.

220.—(1) Any two justices of the peace or a police magistrate, within whose jurisdiction the railway runs, may, on the application of the company or of any clerk or agent of the company, thereto authorized by the company, appoint any person, being a British subject, recommended for that purpose by such company, clerk or agent to act as a constable on and along such railway.

Constables
may be
appointed to
act on the
line of any
railway.

(2) Every person so appointed shall take and subscribe an oath to the effect following:

Oath of
office.

"I, A. B., having been appointed a constable to act upon and "along (*here name the Railway*), under *The Ontario Railway Act*, "do swear that I am a British subject by birth (or naturalization) "and not a citizen or a subject of any foreign country, and that "I will well and truly serve our Sovereign Lord the King, in the "office of constable, without favour or affection, malice or ill-will, "and that I will, to the best of my power, cause the peace to be "kept, and prevent all offences against the peace, and that while "I continue to hold such office, I will, to the best of my skill "and knowledge, discharge the duties thereof faithfully, according "to law: So help me God."

(3) Such appointment shall be made in writing signed by the official making the appointment, and the fact that the person appointed thereby has taken such oath shall be endorsed thereon by the person administering the same. 3-4 Geo. V. c. 36, s. 220.

Appoint-
ment to be
in writing.

221.—(1) Every constable so appointed and having taken such oath may act as a constable for the preservation of the peace and for the security of persons and property against unlawful acts

Powers of
such con-
stables, and
to what
localities
they shall
extend.

(a) on such railway, and on any of the works belonging thereto;

(b) on and about any trains, roads, wharves, quays, landing-places, warehouses, land and premises belonging to the company, or in any place through which such railway passes, or in which the same terminates, or through or to which any railway passes which is worked or leased by such company, and

(c) in all places not more than one-quarter of a mile distant from such railway;

Power to
apprehend
offenders, etc.

(2) Every such constable shall have all the powers, protection and privileges for the apprehending of offenders, as well by night as by day, and for doing all things for the prevention, discovery and prosecution of offences, and for keeping the peace, possessed by any constable duly appointed. 3-4 Geo. V. c. 36, s. 221.

Duties of
such con-
stables.

222.—(1) Every such constable may take such persons as are charged with any offence against the provisions of this Act, or of any of the Acts or by-laws affecting the railway, before any justice or justices appointed for any county or district within which such railway passes.

Jurisdic-
tion of
justices.

(2) Every such justice may deal with all such cases as though the offence had been committed and the person taken within the limits of his jurisdiction. 3-4 Geo. V. c. 36, s. 222.

Dismissal
by judge.

223.—(1) A judge of the County or District Court of the county or district may dismiss any such constable who is acting within his jurisdiction.

By company.

(2) The company or any manager or superintendent thereof may dismiss any such constable who is acting on the railway.

Re-appoint-
ment.

(3) No person so dismissed shall be again appointed or act as a constable for such railway without the consent of the authority by which he was dismissed. 3-4 Geo. V. c. 36, s. 223.

Record of
appointment
of con-
stables.

224.—(1) The company shall, within one week after the date of the appointment or dismissal, as the case may be, of any constable appointed at the instance of the company, cause to be recorded in the office of the clerk of the peace for every county or district wherein the railway passes,—

And of
dismissals.

- (a) such appointment or a certified copy thereof;
- (b) the name and designation of any such constable;
- (c) the date of the appointment;
- (d) the name of the authority making such appointment;
- (e) in the case of dismissal the fact of the dismissal of any such constable;
- (f) the date of any such dismissal; and
- (g) the name of the authority making such dismissal.

Effect as
evidence.

(2) A copy of such record shall be *prima facie* evidence of the due appointment of such constable or of his dismissal as the case may be.

Book for
such records.

(3) The clerk of the peace shall keep a record of all such facts in a book which shall be open to public inspection, and

shall be entitled to a fee of fifty cents for each entry of appointment or dismissal, and twenty-five cents for each search or inspection, including the taking of extracts. 3-4 Geo. V. c. 36, s. 224.

225. Every such constable who is guilty of any neglect or breach of duty in his office of constable shall incur a penalty not exceeding \$80, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 225.

Neglect of duty by constable.
Penalty.
Rev. Stat. c. 90.

POWERS OF PASSENGER CONDUCTORS AS CONSTABLES.

226.—(1) The conductor of every train carrying passengers shall have all the powers of a constable while on duty on his train, and may wear a badge or other distinguishing mark of a special constable.

Conductors to have powers of constables.

- (2) Every passenger who
- (a) is guilty of disorderly conduct;
 - (b) uses any blasphemous or obscene language, or
 - (c) plays any game of cards or chance for money or any other thing of value,

Removal of passenger guilty of misconduct.

may, by the conductor of the train and the train servants of the company, be expelled from and put out of the train with his baggage at any usual stopping place or near any dwelling house as the conductor elects, but the conductor shall first stop the train and shall use no unnecessary force.

(3) The conductor may command the assistance of the employees of the company and of the passengers on such train to assist in such removal. 3-4 Geo. V. c. 36, s. 226.

Assistance to conductor.

227. The company shall cause a notice to be placed in all passenger cars stating that the conductors have the authority and powers of constables. 3-4 Geo. V. c. 36, s. 227.

Notice of authority of conductor.

STREET RAILWAYS AND RAILWAYS OPERATING ALONG HIGHWAYS.

General Provisions.

228. Unless otherwise provided, sections 229 to 263 shall apply only to street railways and street railway companies and to other railways incorporated for the purpose of operating partly or wholly along highways by electricity. 3-4 Geo. V. c. 36, s. 228.

Limited application of ss. 229 to 264.

229. Every such company may, subject to the provisions of the special Act or of any agreement between the company and a municipal corporation, construct, maintain, complete and operate and, from time to time, remove and change, as required, a double or single track railway, with the neces-

Powers of Company.

sary switches, side tracks and turn-outs for the passage of cars, carriages and other vehicles adapted to the same, upon and along such of the highways in any municipality to which the special Act extends, as the council of the municipality may by by-law authorize, and over and upon land purchased or leased by the company for that purpose, and take, transport and carry passengers upon the same by the force or power of electricity, and construct and maintain all necessary works, buildings, appliances and conveniences connected therewith. 3-4 Geo. V. c. 36, s. 229.

Freight
traffic.

230. The company may take, transport and convey goods upon its railway, but no freight or express cars shall be carried along any highway in any city, town or village over the railway unless and until the size and number of the cars and motors to be used therewith, and the hours of running the same, have been approved by the Board, nor shall any freight service be operated nor any class of freight carried on any such highway until authorized by, or except as directed by the Board. 3-4 Geo. V. c. 36, s. 230.

Agreements
between
municipality
and com-
pany as to
construc-
tion, street
repairs, etc.

231. Subject to the provisions of section 259 the company and the council of any municipality in which a railway or part of a railway is proposed to be or is constructed may enter into agreements relating to:

- (a) the construction of the railway;
- (b) the time within which the railway shall be commenced, the manner of proceeding therewith, and the time of its completion;
- (c) the paving, macadamizing, repairing, grading and cleaning of the highways upon which the railway is proposed to be or is constructed;
- (d) the construction, opening and repairing of drains and sewers;
- (e) the laying, repairing or taking up of gas and water pipes in the highways;
- (f) the location of the railway, and the particular highways along which the same may be laid;
- (g) the pattern of rails;
- (h) the time and speed of running the cars, sleighs and other conveyances;
- (i) the fares to be charged within the maximum herein-before mentioned; and
- (j) the amount of compensation, if any, to be paid by the company annually or otherwise. 3-4 Geo. V. c. 36, s. 231.

Municipal Street Railways.

232.—(1) The corporation of a city or town may construct, equip, maintain and operate street railways in, along and over such highways of the city or town, and subject to and upon such terms as the Board may approve; and may lease the same from time to time on such terms as may be determined on.

Power to operate street railways.

(2) The powers conferred by this section shall not be exercised in respect of any highway or part of a highway in, along, or upon which a street railway company is entitled under an agreement with the corporation of the municipality to construct and operate its railway, so long as such right shall continue to exist, and any question or dispute as to whether a street railway company is so entitled shall be determined by the Board.

Not applicable where previous agreement with a company.

(3) In addition to the powers given and conferred by subsection 1 the corporation of a city or town operating or proposing to construct or operate a street railway within its own limits may construct, equip, maintain and operate any extension of any such street railway in any adjoining municipality with the consent of the corporation of such adjoining municipality by by-law, and upon such terms as the Board may approve.

Power to operate extension of street railway in adjoining municipality.

(4) A municipal corporation which constructs, owns or manages a street railway, including any extension in any adjoining municipality, shall have and exercise the same rights and powers and be subject to the same liabilities as street railways and companies under this Act, except where the same conflict or are inconsistent with or are repugnant to the rights, liabilities, powers and duties of a municipal corporation as provided by law.

Rights and liabilities of municipal corporation operating street railway.

(5) Nothing in this section shall relieve any municipal corporation from its obligations and liabilities in respect of highways or bridges. 3-4 Geo. V. c. 36, s. 232.

Saving as to highways and bridges.

233. Where, under the provisions of an agreement between a municipal corporation and a street railway company or any person from whom a street railway company has derived its title, the corporation has become or shall hereafter become entitled to grant to another company or person the right to construct and operate a street railway on any street or part of a street upon which such first mentioned company was authorized or empowered to construct or operate its railway or any part of it, by reason of the failure of such company to construct and operate or to operate its railway thereon, such corporation, instead of granting such right to another company or person, may itself construct, operate and maintain a railway thereon either as a separate and distinct line of railway or as part of any other railway which such

Construction and operation of street railway by municipality where corporation has power to grant franchise to a company.

corporation owns or operates or has power to construct or operate. 3-4 Geo. V. c. 36, s. 233.

Sunday Cars.

Street rail-
ways, etc.,
not to be
operated on
Sunday.

234.—(1) Subject to section 235 no company or municipal corporation operating a street railway, tramway or electric railway shall operate the same or employ any person thereon on the first day of the week commonly called Sunday, except for the purpose of keeping the track clear of snow or ice, or for the purpose of doing other work of necessity.

Exceptions.

(2) This section shall not apply to any railway company or municipal corporation which now has the right to operate its street railway, tramway or electric railway on Sunday.

Penalty.

(3) For every train run or operated in violation of this section the company shall incur a penalty of \$400, recoverable by any person suing for the same under this section and for the purpose thereof.

Application
of penalties.

(4) All money recovered under this section shall be appropriated as follows: One moiety to the plaintiff and the other to the corporation of the local municipality from which the train or car started; but if the train or car is operated by the corporation of the municipality from within the limits of which the same started the plaintiff shall receive the whole amount so recovered.

Liabilities
of conductor.

Rev. Stat. c. 90.

(5) The conductor or other person in charge of any train run or operated in contravention of this section shall, for every such offence, incur a penalty not less than \$1 nor more than \$40, recoverable under *The Ontario Summary Convictions Act*.

Application
of section.

(6) This section shall apply to all electric and street railways, whether operated on a highway or on a right of way owned by the company. 3-4 Geo. V. c. 36, s. 234.

Operation of
street cars
on Sunday
in city of
50,000.

235.—(1) Subject to subsections 2 and 3, and notwithstanding anything in this Act or any other Act, street railways may be operated on Sunday within a city having a population of over 50,000 after a majority of those voting of the electors qualified to vote at municipal elections have voted in the affirmative in answer to the question: "Are you in favour of operating street railways on Sunday?" but no person shall be entitled to vote more than once on such question.

Submitting
question to
electors.

Ascertaining
population.

(2) The question shall not be submitted until the Lieutenant-Governor in Council has declared that the population of the city is over 50,000, and the Lieutenant-Governor in Council may require a census to be taken and may prescribe the nature of the census and the time and manner of taking the same.

(3) When the Lieutenant-Governor in Council has declared that the population of the city is over 50,000, the question may be submitted at the annual municipal election, if the municipal council shall have decided on or before the 1st of December preceding the date of such election to submit the question, and shall not later than the 15th of December have given notice of such decision by public advertisement, for at least one week in each issue of some daily newspaper published in the municipality.

Declaration
as to popu-
lation con-
clusive.

(4) The provisions of *The Municipal Act* as to the submission of questions to the electors and the voting thereon and the imposition of penalties and the prevention of corrupt practices in connection with elections shall apply to a vote taken under the provisions of this section, but no person shall be entitled to vote more than once on the question.

Application
of Muni-
cipal Act.
Rev. Stat.
c. 192.

(5) Nothing in this section shall entitle a street railway company, which has entered into an agreement with a municipal corporation not to run cars on Sunday, to run any of their cars on any Sunday unless and until the company has received permission from the council of such corporation by by-law to run their cars on Sunday, and then only under and subject to such terms and conditions as may be contained in such by-law, and unless and until the company has also entered into an agreement with the corporation to observe the terms and conditions of the by-law. 3-4 Geo. V. c. 36, s. 235.

Agreement
not to be
affected.

Hours of Labour.

236. No employee shall be required or permitted to work for more than six days of ten hours each in any one week. 3-4 Geo. V. c. 36, s. 236.

Employees
not to work
for more
than six days.

237. Where a railway is operated on Sunday no employee shall be required or permitted to work on any Sunday when he has worked on the previous Sunday. 3-4 Geo. V. c. 36, s. 237.

Nor on two
successive
Sundays.

238. For each day on which a breach of either of the two next preceding sections is committed the corporation or company offending shall incur a penalty of not less than \$25 or more than \$100. 3-4 Geo. V. c. 36, s. 238.

Penalty.

Protection of Wires, Pipes and Cables.

239.—(1) The company, when operating any portion of its railway across or along a highway by means of electricity conveyed by wires above ground, shall cause to be strung and maintained guard wires, as far as may be reasonably possible, sufficient to prevent telegraph, telephone or other wires strung across or along the highway from coming into contact with or falling upon the wires conveying such electricity.

Duty to erect
guard wires.

Duty to protect water pipes, etc., from injury by electricity.

(2) The company, when operating any portion of its railway by means of electricity, shall use such means and appliances as may, as far as may be reasonably possible, prevent water pipes, gas pipes, cables and other things, placed underground from being damaged in consequence of the escape or discharge of electricity into the ground.

What to be deemed sufficient.

(3) Unless otherwise ordered by the Board proper bonding of the rails and connecting the rails so bonded to the electric power generator or generators with a proper and efficient system of return wires shall be taken to be a compliance with the provisions of this section.

Powers of Board.

(4) The Board may make such order as it may deem proper to compel the proper observance of this section.

Right of action.

(5) Any person who suffers damage by reason of the non-compliance by the company with the provisions of this section shall have a right of action against the company therefor. 3-4 Geo. V. c. 36, s. 239.

Forfeiture for Non-user.

Forfeiture for non-user.

240.—(1) If a company at any time ceases to regularly use the whole or any part of its railway for a period of eighteen months, it shall, upon its being so ordered by the Board, forfeit the right to use the railway or the part unused, as the case may be, and the company shall also indemnify the corporation of the municipality in respect of the expenses incurred in taking up the rails and removing the poles and wires, and putting the highways in proper repair.

Lien of municipal corporation.

(2) The corporation shall have a lien upon the rails, poles, wires, rolling stock and other property of the company until such expense is paid. 3-4 Geo. V. c. 36, s. 240.

Additional Powers of Electric and Street Railways.

Powers as to production and use of electricity.
Works.

241.—(1) A company operating its railway by electricity, and a street railway company shall also have power to

(a) construct, maintain and operate works for the production of electricity for the motive power of the railway, and for the lighting and heating the rolling stock and other property of the company;

Purchase of water powers.

(b) acquire by lease or purchase and to hold, utilize and develop water powers and the necessary land therewith, and to construct the necessary works for generating electricity for lighting, heating and power in operating the railway;

Arrangements for supply of power.

(c) enter into any agreement with any person or company for supplying steam or other power for the production of electricity for the purposes of the railway, or with any electric light or electric rail-

way company, or any company supplying or furnishing electric power, for the purchase, leasing or hiring of power to run their electric motors, carriages or cars, or for lighting or heating the same, or for any other purpose for which it may be required by the company for constructing, carrying on or operating the railway;

- (d) purchase, lease or acquire by voluntary donation and to hold for any estate in the same and to sell, lease, alienate or mortgage any land or premises intended and necessary or suitable for park or pleasure grounds and to improve and lay out such land as parks or places of public resort, and enter into any agreement or arrangements with the corporations of the municipalities wherein the same are situate or any of them, in respect thereto, subject to the power of the council of the municipality to pass by-laws to regulate the use of such public parks and pleasure grounds, but
- (i) none of the provisions of this clause shall have effect unless and until the council of the municipality has by by-law declared its assent to the company's acquiring land under and for the purpose mentioned in this paragraph, and
- (ii) no such park or pleasure grounds shall be used for games, picnics, concerts, excursions or other public entertainments on Sunday;
- (e) purchase the right to convey electricity for the working of the railway and lighting or heating the same over, through or under land other than the land of the company, and, with the consent of the councils of the municipalities affected, to purchase the right to lay conduits under, or erect poles and wires on or over such land as may be determined by the company, and along and upon any of the highways, or across any of the waters in Ontario by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the cords or wires of such lines, or the conduits for such electricity, upon and subject to such agreement in respect thereof as shall first be made between the company and the owners of the land affected, and between the company and the corporation of any municipality in which such works or any part thereof or of the railway may be situate, and under and subject to any by-law of the council of such municipality passed in pursuance thereof; but such works shall not be so constructed as to incommode the public use of such highways, or so as to be a nuisance thereto, or to impede the

Power to
acquire
lands for
parks, etc.

Saving
as to assent
of council.

Idem as
to Sunday.

Acquiring
rights for
conveying
electricity.

free access to any house or other building erected in the vicinity of the same or to endanger or injuriously affect the same or to interrupt the navigation of such waters.

As to Crown
lands, pub-
lic parks, etc.

(2) The rights conferred upon the company shall not be exercised within the limits of any park vested in His Majesty for the use of the public, or any land vested in commissioners for any such park, without the approval of the Lieutenant-Governor in Council.

Construction
of railway
on high-
ways.

(3) Subject to sections 246 to 252, and section 261, no railway or street railway shall be constructed or operated along any highway or public place in any municipality until first authorized by an agreement made between the company and the corporation of such municipality, and, except under and subject to the terms of such agreement and of section 259, and of any by-law of the council of the municipality passed in pursuance thereof; and in all such cases every work, matter or thing in connection with the motive power, and the application and use thereof in so constructing and operating such railway, or the cars, carriages, engines, motors or machines thereof, shall be so constructed, erected, laid down and arranged as to impede or incommode the public use of such highway or public place as little as possible, and so as not to be a nuisance thereto, nor to interfere with the free access to any house or other building erected in the vicinity of the same, and the electric and other appliances shall be of such improved manufacture and so placed as to void so far as possible any danger to buildings or other property. 3-4 Geo. V. c. 36, s. 241.

Notice to be
given before
passing by-
law author-
izing con-
struction on
highways.

242.—(1) No municipal council, notwithstanding anything contained in this or any other Act to the contrary, shall pass a by-law authorizing any electric railway company or street railway company to lay out or construct its railway along any public highway until written or printed notices of the intended by-law, specifying the route to be taken by the railway, shall have been previously posted up for one month in six of the most public places in the municipality, and published weekly for at least four successive weeks in a newspaper published in the municipality or if there is no such newspaper then in a newspaper published in a neighbouring municipality, or if there is no such newspaper then in a newspaper published in the county or district town.

Objectors to
be heard by
council.

(2) The council shall hear in person or by counsel any one whose property may be prejudicially affected by such proposed railway who desires to be heard.

Appeal to
Board to
quash or
amend.

(3) If, after hearing such objections as may be made, the council passes the by-law any fifteen freeholders in the municipality may petition the Board to amend or quash such by-law, and upon such petition, after hearing all parties inter-

ested, the Board shall have power to amend such by-law in such manner as to the Board may seem proper, or to quash the same.

(4) The costs of such proceeding shall be in the discretion Costs. of the Board and may be fixed by the Board or taxed by one of the taxing officers of the Supreme Court.

(5) This section shall not apply to extensions within the Section not to apply to certain extensions. limits of a city or town of a street railway already constructed, nor to a by-law which requires the assent of the electors under *The Municipal Franchises Act*. 3-4 Geo. V. Rev. Stat. c. 197. c. 36, s. 242.

243.—(1) The company may, at any point or points Power to deviate. where its line runs along a highway, deviate from the highway to a right of way owned by the company if no obstruction of the highway is thereby caused, and if the rails on such deviation do not rise above or sink below the surface of the highway more than one inch they shall not be deemed an obstruction.

(2) The right conferred by this section shall not be exercised without the consent of the Board. 3-4 Geo. V. c. 36, s. 243. Proviso.

244. Notwithstanding anything in this Act, or in any Limitation of transmission of electrical energy. statute, no municipal corporation shall grant to any company any exclusive right, privilege or franchise for the transmission of electrical energy for power, light and heat over or across any highway. 3-4 Geo. V. c. 36, s. 244.

Expropriation by Street Railway or Incline Railway Companies.

245.—(1) Where the council of a municipality, by by-law, When expropriation of land by these companies may be allowed and to what extent. declares that it is of opinion that a company incorporated with power to construct a street railway or incline railway in the municipality should have powers of expropriation for the purposes of building a part of its railway between two or more points, set forth in the by-law, situate within the municipality, the company, upon registering the by-law in the proper registry office, shall, in respect of land lying between the points named, possess the powers conferred upon railway companies by the sections of this Act relating to the taking of land without the consent of the owner.

(2) Such powers shall be exercised within two years from the passing of the by-law, and not afterwards, and the land to be taken thereunder shall not exceed one chain in width. Limitation.

(3) This section shall not apply to the tract of country Niagara Falls. extending three miles above and three miles below the Falls of Niagara, and for a width inland of one mile from the River Niagara. 3-4 Geo. V. c. 36, s. 245.

Duration of Street Railway Franchises.

Limitation of
duration of
franchise.

246.—(1) No municipal council shall grant to a street railway company any privilege under this Act for a longer period than twenty-five years.

When
municipality
may assume
the owner-
ship.

(2) At the expiration of twenty-five years from the time of passing the first by-law which is acted upon conferring the right of laying rails upon any highway or at such other earlier date as may be fixed by agreement, the municipal corporation may, after giving to the company one year's notice prior to the expiration of the period limited, assume the ownership of the street railway, and all real and personal property in connection with the working thereof on payment of the actual value thereof to be determined by the Board.

How value
ascertained.

(3) In ascertaining such actual value the franchise or control of tracks upon the highways shall not be estimated as of any value whatever.

Alternative
right.

(4) If the corporation does not exercise such right, the corporation may exercise the like right at the expiration of any fifth year thereafter, upon giving one year's previous notice to the company, and the privileges of the company shall continue until the ownership is assumed by the corporation.

Who may
exercise right
to purchase.

(5) If a street railway extends beyond the limits of a city or town the corporation of the city or town may exercise the right conferred by this section.

Position of
municipality
purchasing.

(6) The corporation purchasing shall possess the same powers and authority and be subject to the same conditions, obligations and restrictions as the company, and shall be subject to all orders and directions of the Board in the same manner and to the same extent as a company operating a street railway. 3-4 Geo. V. c. 36, s. 246.

Municipal-
ity dissatis-
fied with
terms as to
railway in
certain
cases, may
apply to
the Board.

247.—(1) The council of any municipality into which a street railway runs may, at any time after the right of assuming the ownership of the railway accrues to a municipal corporation, require that the terms upon which the railway shall be operated in such municipality be determined; and the terms, if the company and the council of the municipality are unable to agree as to them, shall be determined by the Board, and such arrangement shall remain in force for ten years.

Re-adjust-
ment of
terms.

(2) At the end of that period either party may require that the terms be settled anew in like manner for another period of ten years; but such settlement or agreement shall be without prejudice to the right hereinbefore conferred upon a city or town to assume the ownership of the railway at the expiration of any fifth year. 3-4 Geo. V. c. 36, s. 247.

248. Subject to section 246 a municipal corporation purchasing may, at any time, transfer its rights to its street railway lines or any of them, and the whole or any part of the plant of the railway, to any person or company authorized to operate a street railway, on such terms and conditions as may be agreed upon by such street railway company and the municipal corporation. 3-4 Geo. V. c. 36, s. 248.

Municipality acquiring railway may transfer same to a company.

249. A company to which any lines of street railway have been transferred by a municipal corporation shall, as respects the provisions of the next preceding section, stand in the same position as the municipal corporation from which it received such transfer. 3-4 Geo. V. c. 36, s. 249.

Position of company so acquiring.

Limitation of Company's Powers.

250.—(1) A company shall not, without having first obtained the permission and approval of the Board, begin the construction of its railway or of any extension of it upon any highway or part of a highway upon which it has authority to construct or extend its railway.

Railway not to be constructed on highway without sanction of Board.

(2) The Board may withhold its permission and approval where it is of opinion that it has not been made to appear that the construction or extension upon such highway or part of a highway is necessary or convenient for the public service, or where in, the opinion of the Board, it is not in the public interest that the railway should be constructed or extended upon such highway or part of a highway.

When Board may withhold permission.

(3) This section shall apply to any addition to or alteration of the line of the railway as constructed, and shall apply notwithstanding the terms of any agreement between the company and any municipal corporation.

Additions or alterations of line.

(4) This section shall apply to all railways however operated and to street railways. 3-4 Geo. V. c. 36, s. 250.

Application to street railway.

251. Nothing in this Act shall authorize the passing of any by-law, the making of any agreement, the granting of any franchise or privilege, or the doing of any other thing in contravention of *The Municipal Franchises Act*. 3-4 Geo. V. c. 36, s. 251.

Municipal Franchises Act.

Rev. Stat. c. 197.

Duration of Privileges to Operate Electric Railways along Highways.

252.—(1) No municipal council shall grant to a company any privilege to operate its line along a highway for a longer period than twenty-five years.

Limitation of duration of franchise.

(2) At the expiration of the period for which the privilege was granted the council may extend such privilege for a further term, not exceeding twenty-five years, on such terms and

Extension.

When municipality may assume ownership.

conditions as may be agreed upon by the council and the company, or, with the consent of the Board, the corporation of such municipality may assume the ownership of that portion of the railway operated on the highways of such municipality upon payment of the actual value thereof, to be determined by the Board.

Value.

(3) In ascertaining such actual value the franchise or control of the tracks upon such highways shall not be estimated as of any value whatever.

Notice of intention to take over railway.

(4) The corporation shall not have the right to assume such ownership unless notice of the intention so to do has been given to the company one year prior to the expiration of the privilege or franchise, and in no case shall a municipal corporation assume such ownership without the consent of the Board.

Application of section.

(5) This section shall only apply to electric railways that are not street railways. 3-4 Geo. V. c. 36, s. 252.

Fenders, Brakes, etc.

Approval of fenders and other appliances.

253.—(1) A company operating any portion of its line by means of electricity along a highway shall from time to time adopt and use in the front of each motor car a fender or guard, and shall from time to time adopt and use a brake and other life-saving appliances of a design approved from time to time by the Board.

Adoption.

(2) The fender, guard, brake or other life-saving appliance so approved of by the Board shall be adopted and used upon the cars of the company within the time fixed by the order approving of the same, or by any order extending such time.

Use of approved fenders.

(3) Where the cars are equipped with fenders of a class so approved by the Board the company shall not be liable for non-compliance with any by-law or agreement relating to the class of fenders to be used in any city or town, or any requirement of the engineer or other officer of the municipality under any such by-law or agreement.

Penalties for not providing fenders, etc.

(4) The company shall pay to the corporation of the municipality in which such railway is operated the sum of \$10 for each day in which any motor car is operated within such municipality without having such a fender, guard, brake or other life saving appliance thereon, except in cases of accident or unavoidable necessity.

Tests of fenders, brakes, etc.

(5) If the Board so orders the company shall allow tests to be made on any of its motors or cars, of any fender, guard, brake or other life saving appliance which the Board deems advisable to have tested with a view to ascertaining its efficiency for the purpose for which it is designed. 3-4 Geo. V. c. 36, s. 253.

Conveniences, etc.

254.—(1) Every street railway company and incline railway company shall, within six months after being so ordered by the Board, provide, furnish and thereafter maintain suitable and sanitary urinals and other conveniences for the use of the employees of the company operating its cars. Conveniences for street railway employees.

(2) Such urinals and other conveniences may be located upon land owned or provided by the company and reasonably accessible to each of the lines of railway operated by the company, and at such points as the Board may direct, within the limits of the city or town, and the employees of the company shall be allowed reasonable opportunity of access thereto. Location.

(3) The company shall incur a penalty of \$10 per day for each day upon which it neglects to provide such urinals or other conveniences. Penalty for not supplying.

(4) The Board shall determine whether the cost of such urinals and conveniences shall be borne by the company or by the city or town within the limits of which the company's lines are operated, or by both, and if by both the proportions in which the same shall be borne by them respectively, in case the parties are unable to agree, as may be determined by the Board. Cost of providing conveniences.

(5) The Board may order the city or town to provide the site for such urinals or other conveniences, upon such terms as to cost and otherwise as the Board may determine. City or town may be ordered to provide site.

(6) When so ordered by the Board such urinals and conveniences shall be open to the public as well as to the employees of the company, and when so open the Board may order the cost of the maintenance of the same to be borne by the city or town and the company in such proportions as may be deemed proper. 3-4 Geo. V. c. 36, s. 254. Board may order conveniences to be open to the public.

255.—(1) The Board may order a company to provide sanitary conveniences for the use of passengers on all passenger cars. Sanitary conveniences on cars.

(2) This section shall only apply to electric railways that are not street railways, and to steam railways. 3-4 Geo. V. c. 36, s. 255. Application.

"Pay as You Enter" System.

256.—(1) What is known as the "pay as you enter system" of collecting fares shall not be operated on any street railway car unless the design of the car has been approved by the Board. Conditions upon which "pay as you enter" cars may be operated.

(2) Every company or person who contravenes this section shall therefor incur a penalty of \$100 per day for each car operated contrary to the provisions of this section. 3-4 Geo. V. c. 36, s. 256. Penalty.

Unclaimed Property.

Notification
of owner.

257.—(1) Where unclaimed property is left in a car the company shall ascertain if possible the owner of it, and as soon as possible after such property comes into its possession, notify him of the fact by mail and of the place where the property may be claimed.

Disposal of
non-perish-
able property.

(2) Every company which has such property, not being perishable property, in its possession for three months may sell the same at public auction, after giving notice by one publication, at least ten days prior to the sale, in a daily newspaper published in the city or town in which the sale is to take place, of the time and place at which it will be held, and such sale may be adjourned from time to time until all the articles are sold.

Perishable
property.

(3) Perishable property so left may be immediately sold without notice.

Places of
deposit.

(4) The places at which the property may be claimed shall be subject to the approval of the Board. 3-4 Geo. V. c. 36, s. 257.

Transfer in Ownership of Highways.

Agreements
with com-
panies as to
certain mat-
ters to
ensure for
benefit of
municipality
owning road.

258. Where a railway, operated by electricity upon a highway or a portion thereof which is so operated, has been or shall hereafter be, constructed in a municipality under an agreement with the corporation thereof, or with the corporation having the control of the highway, and the territory or any part of the territory, in which such railway has been, or shall be constructed, is subsequently annexed to another municipality, or the highway along which such railway has been or shall be constructed, has ceased to be owned or controlled by the corporation of one municipality, and has become vested in or has been placed under the control of another corporation, then, so far as such agreement relates to the maintenance and repair of the track and roadbed of the railway or the remaining portions of the highway or highways over which the railway is operated, and to the removal of snow and ice from the company's track and the disposal thereof, the corporation of such last mentioned municipality, and any officer or person appointed for such purpose, shall be substituted for and shall have all the rights and may exercise all the powers and be subject to the same duties as the municipal corporation party to such agreement and any officer or person charged with the performance of any duty thereunder in respect of the matters aforesaid. 3-4 Geo. V. c. 36, s. 258.

Agreements with Municipalities for Operating Along Highways.

Clauses to
be included
in agree-
ments.

259. Any agreement between a municipal corporation and a company under which the company obtains a right or franchise to operate its railway along a highway, except so

far as such provisions are expressly excluded by such agreement, shall be deemed to contain provisions that

- (a) the rails of the company shall conform to the grade Grade.
of the highway;
- (b) where the rails are laid upon the paved or travelled ^{Rails to be}
portion of a highway, or on any part thereof, they ^{flush with}
shall be laid as nearly as practicable flush with ^{street, etc.}
the highway, and so as to cause the least possible
impediment to the ordinary traffic, and shall be
so kept and maintained by the company;
- (c) the company, so long as it uses any of its tracks on ^{Company to}
the travelled portion of a highway, shall keep in ^{keep road-}
repair the whole space used on its track allow- ^{way in}
ances, crossings, switches and turnouts and ^{repair.}
eighteen inches of the highway outside of its
tracks;
- (d) if the company neglects to keep in repair its track ^{Company}
allowances and crossings, switches and turnouts ^{neglecting}
or to have the necessary repairs according to the ^{to repair.}
agreement made thereon, the council may give
notice to the company requiring such repairs to
be made forthwith, and the certificate of the
engineer, appointed by the council for the time
being, as to the necessity for such repairs shall
be binding and conclusive upon the company, and
if, after giving such notice, the company does not
within one week begin, and thereafter, with all
reasonable diligence, carry such work of repair-
ing to completion, the council shall have the right
to cause such repairs to be made, and the com-
pany shall pay to the treasurer of the municipal-
ity the expenditure incurred in making or com-
pleting such repairs;
- (e) the payment of such amount shall not relieve the ^{Penalty.}
company from any penalty provided for the omis-
sion to repair by the agreement between the cor-
poration and the company;
- (f) a car or train of cars shall not be operated on the ^{Speed.}
travelled portion of any highway at a greater
speed than fifteen miles an hour unless author-
ized by the Board, and it shall be operated at a
less rate of speed if so ordered and directed by
the Board;
- (g) at the intersection of the railway with highways ^{Intersecting}
crossing or intersecting the highway upon which ^{roads.}
the railway is operated the company shall con-
struct and keep in repair crossings of a similar
character to those adopted by the municipal cor-
poration, and shall construct underneath its track

Culverts.

allowance such culverts and waterways as are, in the opinion of the council or its engineer or other officer appointed for that purpose, necessary for drainage purposes, and shall at the entrance to private properties abutting upon the railway construct such approaches as may be directed by the council or such officer or by the Board;

Width of culverts.

(h) when the tracks are built over a culvert, the company shall, when so directed by the council or such engineer or other officer or by the Board, extend such culvert so that the portion of the highway to be travelled upon by the public shall have a width of at least eighteen feet between the nearest track and the end of the culvert upon the side of the highway opposite to such track;

Removal of snow.

(i) the company shall remove the snow from and within its tracks and switches, but any snow put upon the graded part of the highway by the company shall be evenly spread thereon in a manner to be approved by the council or its engineer or other officer;

Taking up streets by municipality.

(j) the council may at any time, after giving to the company 20 days' notice of its intention so to do, take up any part of the highway upon which the railway is constructed for the purpose of altering the grade of the highway, constructing sewers, drains, culverts or side crossings, laying down gas and water pipes or underground wires, and for all other purposes within the jurisdiction and authority of a municipal corporation without being liable for any compensation for damage that may be occasioned to the working of the railway or the works connected therewith;

Notice of council's intention.

(k) when and so often as it may be necessary for the corporation to open up a highway for the purpose of repairing it or any sewer, drain, culvert, gas or water pipe, or underground wire, or for putting in gas, water or other services, a reasonable notice shall be given to the company of the council's intention so to do, and the work thereon shall not be unnecessarily delayed, but shall be carried on and completed with all reasonable speed, due regard being had to the proper and efficient execution thereof;

Work to be done to satisfaction of municipality's engineer.

(l) all work done by the company, under the authority of the agreement, shall be done in the most substantial manner and according to the best modern practice and under the superintendence and to the satisfaction of the engineer or officer appointed by the council for such purpose, with a right of appeal to the Board;

- (m) the alignment of the company's tracks, the location of switches and turn-outs and the grades of the roadbed of its railway shall be prescribed by such engineer or other officer; Alignment, switches, turn-outs and grades.
- (n) the company shall repay to the corporation all sums paid by it to such officer or engineer for services performed by him in connection with the company's work; Company to pay for engineer.
- (o) all persons using the highway shall be at liberty to travel upon any part of the travelled roadway occupied by the company's railway, and in the same manner as upon other portions of the highway, and vehicles of every description shall be allowed upon such portion of the highway, but the company's cars shall have the first right of way over the railway, and all vehicles or persons travelling on that portion of the highway occupied by the railway shall turn out to let the trains or cars pass, and any person refusing or neglecting so to do shall incur a penalty not exceeding \$10, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 259. Right of public to use track allowances. Rev. Stat. c. 90.

Remedy for Breach of Agreement.

260.—(1) Where a railway or street railway is operated in whole or in part upon or along a highway under an agreement with a municipal corporation, and it is alleged that such agreement has been violated, the Board shall hear all matters relating to such alleged violation and shall make such order as to it may seem just, and by such order may direct the company or person operating the railway, or the municipal corporation, to do such things as the Board deems necessary for the proper fulfilment of such agreement, or to refrain from doing such acts as in its opinion constitute a violation thereof. Board to try all cases of breach of agreement.

(2) The Board may take such means and employ such persons as may be necessary for the proper enforcement of such order, and in pursuance thereof may forcibly or otherwise enter upon, seize and take possession of the whole or part of the railway, and the real and personal property of the company together with its books and offices, and may, for that purpose, assume and take over all or any of the powers, duties, rights and functions of the directors and officers of such company and supervise and direct the management of such company and its railway in all respects, including the employment and dismissal of officers and servants of the company, for such time as the Board shall continue to direct such management. May enter company's property and exercise functions of directors.

(3) Upon the Board so taking possession of such railway and property, it shall be the duty of every officer and em- Company's servants to obey Board.

ployee of the company to obey the orders of the Board or of such person as it may place in authority in the management of any or all departments of such railway.

Power of
Board to pay
out and
receive money.

(4) The Board shall, upon taking possession, have power to demand and receive all money due to and to pay out all money owing by the company, and may give cheques, acquittances and receipts for money to the same extent and in as full and ample a manner as the proper officers of the company could do if no such order had been made.

Effect of
such.

(5) Cheques, acquittances or receipts given by the Board shall be a defence to any action that may afterwards be brought by the company against the person or corporation paying over the money for which such cheques, acquittances or receipts were given.

Board not
liable for
damages.

(6) The Board and the members thereof, and its officers and employees shall not be liable to any action for acts done by them or any of them under the authority of this section.

Costs.

(7) The expenses of and incidental to proceedings taken by the Board under this section shall be in the discretion of the Board, and the Board shall have power to direct by whom and to what extent the same shall be paid.

Idem.

(8) The certificate of the Board as to the amount of such expenses shall be final. 3-4 Geo. V. c. 36, s. 260.

Radial Lines.

Conditions of
operating
in cities
and towns.

261.—(1) Notwithstanding anything in this Act the railway shall not be constructed along any highway within the limits of any city or town except upon and subject to such terms and conditions as have been agreed upon between the company and any street railway or electric railway company, already operating in such city or town, and the corporation of such city or town.

Saving of
existing
agreement.

(2) If there is an existing agreement between the corporation of such city or town and such street railway or electric railway company, the railway shall not be constructed along any such highway in contravention of the provisions of the agreement.

Terms.
governing
admission
of other
railways.

(3) Where no provision is contained in the agreement for the admission of other electric or street railways then, if the council of such city or town, by by-law or resolution, requests the street railway company or electric railway company already operating in the city or town to allow its tracks or any of the highways to be used for the entrance of such other railway, or if such street railway company or electric railway company or such other railway company, by by-law or resolution, requests the council of the city or town to permit the entrance of the railway, the company so operating shall permit its tracks or any highways to be so used to some central point

in the city or town, and the corporation shall permit such other railway to enter within the limits of such city or town, upon such terms and conditions as to compensation, location of the central point, and otherwise as may be agreed upon between such other railway company, the council and such street railway or electric railway company, or as shall be settled and determined by the Board in case the council and the companies are unable to agree upon the same.

(4) Nothing in this section shall, without the consent of the corporation of the city or town, confer upon a company any right or privilege to so operate its railway for a longer period than the unexpired term of the franchise or privilege held or enjoyed by the company which, at the date of the application to the Board under this section, is operating a railway or street railway within the limits of such city or town.

Grant of franchise to radial railway not to extend beyond street railway company's franchise.

(5) At the expiration of such term a new agreement granting the right or privilege may be made for a further period not exceeding twenty-five years, and in the event of the parties being unable to agree the Board may, in its discretion, order a new agreement to be made upon such terms and conditions as shall be determined by the Board.

Renewal of agreements.

(6) This section shall not confer upon the Board power to vary or annul any provision in the agreement, or in the order of the Board allowing the entrance of such other railway, which grants to the corporation of the city or town the right to take over and assume the ownership of such other railway within the limits of such city or town on the expiration of any such term. 3-4 Geo. V. c. 36, s. 261.

Rights of municipality as to taking over railway not affected.

262. A company operating its railway in a city or town shall, in addition to such terms, conditions, regulations and restrictions as may be contained in any agreement with or by law of the city or town, be subject as to that portion of the railway within the limits of such city or town to the provisions of this Act respecting the construction and operation of street railways. 3-4 Geo. V. c. 36, s. 262.

Application of street railway sections to radial lines operating in city or town.

Examination of Motormen.

263.—(1) No person shall be employed as a motorman on any railway or street railway operated by electricity until he has been subjected to a thorough examination by an examiner or examiners, to be approved by the Board, as to his habits, physical ability and intelligence, and has undergone such training as may be prescribed by the Board, by regulation applicable generally or to the particular railway, and the examiner has reported to the Board that such person is competent to fill the position of motorman.

Examination of applicants for positions as motormen.

(2) He shall then be placed on a car with an instructor, and when the examiner is satisfied as to his capability for the position of motorman he shall so certify to the Board, and, if

Certificate by instructor as to capacity.

such person is employed, he shall, so far as reasonably possible, first serve on the lines of least travel.

Payment of
examiner.

(3) The company shall pay for the services of the examiner.
3-4 Geo. V. c. 36, s. 263.

EXAMINATION FOR COLOUR BLINDNESS.

Examina-
tion as to
eyesight.

264.—(1) No company shall employ any person in a position which requires him to distinguish form or colour signals unless, within two years next preceding his appointment, he has been examined for colour blindness on the distinct colours in actual use as signals on the company's line of railway, and also as to his eyesight generally, by some competent person employed for the purpose by the company and approved by the Board, and has received a certificate that he is not disqualified for such position by reason of colour blindness or otherwise in respect of his eyesight.

Periodical
re-exam-
ination.

(2) The company shall cause such employees to be re-examined for colour blindness, and otherwise in respect of their eyesight, at least once in every two years.

When defect
can be
remedied
by glasses.

(3) Nothing in this section shall prevent the company from continuing in its employment any person having defective sight in cases where the same can be fully remedied by the use of glasses or by other means satisfactory to the person making the examination.

Penalty.

(4) For every contravention of this or the next preceding section the company shall, for each offence, incur a penalty of \$100. 3-4 Geo. V. c. 36, s. 264.

ACTIONS FOR DAMAGES.

Limitation, Inspection.

Limitation.

265.—(1) Subject to subsection 4 of section 139 all actions for indemnity, or for any damages or injury sustained by reason of the construction or operation of the railway, shall be commenced within one year next after the time when such supposed damage is sustained, or, if there is continuation of damage, within one year next after the doing or committing of such damage ceases, and not afterwards.

Certain
actions
excepted.

(2) Nothing in this section shall apply to any action brought against the company upon any breach of contract, express or implied, for or relating to the carriage of any traffic, or to any action against the company for damages under the provisions of this Act respecting tolls.

Company
not relieved
by reason of
inspection, etc.

(3) No inspection had under this Act, and nothing in this Act and nothing done or ordered, or omitted to be done or ordered under or by virtue of the provisions of this Act, shall relieve, or be construed to relieve, any company of or from

or in any wise diminish or affect any liability or responsibility resting upon it by law, either towards His Majesty or towards any person, or the wife or husband, parent or child, executor or administrator, heir or personal representative, of any person, for anything done or omitted to be done by such company, or for any wrongful act, neglect or default, misfeasance, malfeasance, or non-feasance, of such company. 3-4 Geo. V. c. 36, s. 265.

Damages for Defective Machinery.

266.—(1) No company owning or operating a railway in whole or in part in Ontario shall adopt or promulgate any rule or regulation for the government of its servants or employees, or make or enter into any contract or agreement with any person engaged in or about to engage in its service, in which such employee directly or indirectly promises or agrees to hold such company harmless, on account of any injury he may receive by reason of any accident to, breakage, defect or insufficiency in the cars, motors, locomotives or machinery or attachments thereto belonging, and any such rule, regulation, contract or agreement shall be void and of no effect. Contracts waiving right of employees damages to void.

(2) No such company shall demand, accept, require, or enter into any contract or agreement with any person about to enter or in the employ of the company whereby such person agrees to surrender or waive any right to damages for personal injury or death against any such company thereafter arising; and all such contracts and agreements shall be void. Not to be entered into.

(3) Every company contravening or aiding in the contravention of this section shall, for each offence, incur a penalty of five hundred dollars, to be recovered in any court of competent jurisdiction by any person suing therefor. Penalty.

(4) No such company shall knowingly or negligently use or operate any car, motor or locomotive that is defective, or any car, motor or locomotive upon which the machinery or attachments thereto belonging are in any manner defective. Company not to operate defective machinery.
3-4 Geo. V. c. 36, s. 266.

WAGES OF LABOURERS.—SUBSIDIES.

267.—(1) Where this Legislature has heretofore granted or hereafter grants financial aid by way of subsidy or guarantee towards the cost of railway construction, all mechanics, labourers or other persons who perform labour in such construction shall be paid such wages as are generally accepted as current for competent workmen in the locality in which the work is being performed; and if there is no current rate in such locality, then a fair and reasonable rate. Rate of wages of labourers on construction of lines subsidized by Legislature.

Decision of
Board final.

(2) If a dispute arises as to what is such current rate, or a fair and reasonable rate, it shall be determined by the Board whose decision shall be final. 3-4 Geo. V. c. 36, s. 267.

Interpretation.

268.—(1) In this section

"Settlers."
"Prospectors."

(a) "Settlers" and "Prospectors" shall include a person who produces evidence to the proper officer of the railway company that he is an intending settler or prospector, as the case may be, in a district through which such railway runs, which evidence shall be deemed sufficient if it complies with the requirements of any Order in Council in that behalf, and shall also mean and include every member of the family of a settler or prospector residing with him using such railway or any part thereof in connection with such prospecting and settling.

"Toll."

(b) "Toll" shall include any rate or charge for any passenger, animal, vehicle, goods, merchandise, or thing conveyed on the railway.

Subsidies to
be subject
to certain
conditions
as to special
rates to
settlers, etc.

(2) Every subsidy heretofore granted out of the Consolidated Revenue Fund in aid of any railway, as to any part thereof which is still unearned, and every such subsidy hereafter granted, in addition to all other lawful requirements, shall be subject to any conditions which may be imposed by the Lieutenant-Governor in Council respecting the tolls to be charged to "Settlers" or "Prospectors" using any such subsidized railway or any part thereof in connection with their prospecting and settling in any district through which the railway runs, either for freight or passenger service.

Default.

Deduction
from
subsidy.

(3) In default of compliance with such conditions, or any of them, there may be deducted and retained from any money payable in respect of such subsidy such amount as the Lieutenant-Governor in Council may deem proper, and the railway company or any assignee of a railway company claiming such subsidy shall not be entitled to receive payment of the same, or if such subsidy has been paid over prior to such default the company operating such railway shall forfeit such part thereof as may be determined by the Lieutenant-Governor in Council and the same may be recovered back from such company at the suit of the Attorney-General in any court of competent jurisdiction.

Recovery.

Current
wages.

(4) Every such subsidy shall further be subject to the condition that the workmen, labourers or servants employed in or about the construction and operation of the railway shall be paid such rate of wages as may be currently payable to workmen, labourers and servants engaged in similar occupations in the district in which such railway is constructed and operated, and upon breach of such condition by the railway company there may be deducted and retained from any money payable in respect of such unearned subsidy such

amount as the Lieutenant-Governor in Council may deem proper, and if the subsidy has been paid over before such breach such part thereof as may be determined by Order in Council may be recovered back from such railway company at the suit of the Attorney-General in any court of competent jurisdiction.

(5) Every railway company entitled to a subsidy either in money or in land under any Act of this Legislature, the whole or part of which is still unearned, shall, as far as practicable, construct, equip and operate its lines of railway with railway supplies and rolling stock made, purchased or procured in Canada, if the same can be obtained as cheaply and upon as good terms in Canada as elsewhere, having regard to quality, unless the Lieutenant-Governor in Council approves of the same being procured elsewhere.

Where supplies to be purchased.

(6) No person shall be employed in the construction of any railway receiving a subsidy either in money or in land who is a citizen or subject of any country having an alien labour law which has the effect of excluding Canadians from employment upon the public works of such country or on other works therein.

Alien Labour.

(7) For every contravention of subsection 6 the company shall incur a penalty of \$20 per day for each person so employed during the whole period of such employment.

Penalty.

3-4 Geo. V. c. 36, s. 268.

269.—(1) Whenever it is made to appear to the Provincial Secretary that any railway owned by a company incorporated by Act of this Legislature, the construction of which has been aided by a subsidy from the Government of Ontario, cannot by reason of the condition of such railway or of its equipment be safely and efficiently operated, the Provincial Secretary may apply to the Board for an order that the railway, or its equipment, or both, shall be put in a safe and efficient condition, which order the Board is hereby authorized to make after such notice to the president or manager of the company and the trustee of the bondholders, if any, as to the Board seems reasonable; and the Board may, by order, direct what repairs, improvements or additions shall be made to the railway, or equipment, or both, and within what times the same shall be undertaken and completed respectively.

Subsidized railways must be in safe and efficient condition.

Application to Board.

(2) If the company fails to comply with such order of the Board the Lieutenant-Governor in Council may, upon the recommendation of the Provincial Secretary, approve of such order, and direct that a copy of such order and of the order of the Lieutenant-Governor in Council approving thereof, certified by the secretary of the Board and the Clerk of the Executive Council respectively, shall be filed by the Provincial Secretary in the office of the registrar of deeds of each county through which such railway runs, and upon such orders being so filed there shall, *ipso facto*, be created a first lien or

On failure of company to comply with order, a lien may be created.

mortgage upon the railway and its equipment in favour of His Majesty for the amount of the subsidy, which shall immediately thereupon become due and payable to His Majesty.

Enforce-
ment of
lien.

(3) Such lien may be enforced by His Majesty in the same manner and by the like proceedings as any other lien upon property may be enforced by His Majesty in the Supreme Court, and the said court may order such railway and its equipment to be sold to satisfy such lien, and pending such lien may appoint a receiver to manage and operate such railway.

Application
of money
realized.

(4) Any money realized from such sale may, with the consent of the purchaser, be applied by the Provincial Secretary, under the direction of the Board, towards the repair and improvement of such railway and equipment so far as the same may be deemed necessary by the Provincial Secretary, and any money so realized, and not in the opinion of the Provincial Secretary required for such repairs and improvements, may be paid to the company owning the railway at the time of the sale, or to the trustee for bondholders, in the event of there being outstanding bonds secured by mortgage or otherwise upon such railway. 3-4 Geo. V. c. 36, s. 269.

HOURS OF LABOUR.

Limit of
duration of
continuous
employment.

270. No company operating a line of railway, of twenty miles in length or over, shall require or permit a conductor, engineer, motorman, fireman, trainman, despatcher or signal man who has worked in any capacity for sixteen consecutive hours to go again on duty to perform any kind of work unless he has had at least six hours' rest. 3-4 Geo. V. c. 36, s. 270.

Power to
regulate
labour of
street railway
employees.

271.—(1) The Board may regulate the hours during which conductors and motormen, employees of a street railway company, may be required or permitted to work, but in no case shall an employee be permitted to work more than six days in a week or ten hours per day, and, whenever practicable and reasonable, such ten hours' work shall be performed within twelve consecutive hours.

Agreements
not to affect
power to
regulate.

(2) The power conferred by subsection 1 may be exercised notwithstanding the provisions of any agreement between a municipal corporation and a railway company as to hours of labour.

Penalty.

(3) Every company which, and every director, superintendent, manager or officer of a company who contravenes the provisions of any order of the Board, made under the authority of subsection 1, or contravenes any of the provisions of this section, shall, for each contravention, incur a penalty of not less than \$100 nor more than \$250, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 271.

RETURNS.

272.—(1) Every company shall annually prepare returns in duplicate, in accordance with the forms for the time being required and furnished by the Board, of its capital, traffic, and working expenditure, and of all other information required.

(2) Such returns shall be dated and signed by, and attested upon the oath of, the secretary or some other chief officer of the company, and shall also be attested upon the oath of the president, or in his absence of the vice-president or manager of the company.

(3) Such returns shall be made for the period beginning from the date to which the then last yearly returns made by the company extend, or if no such returns have been previously made from the commencement of the operation of the railway and ending with the last day of June in the preceding year.

(4) The duplicate so dated, signed and attested in manner aforesaid shall be transmitted by the company to the Board by registered post within three months after the 30th day of June in each year.

(5) The Board shall transmit the returns so made to the Provincial Secretary and the same shall be laid before the Assembly forthwith if the Assembly is then in session, or if it is not then in session within fifteen days after the commencement of the next session. 3-4 Geo. V. c. 36, s. 272.

273.—(1) Every company shall annually, or more frequently if the Board so requires, make to the Board, under the oath of the president, secretary or superintendent of the company, a true and particular return in duplicate of all accidents and casualties, whether to persons or to animals or other property, which have occurred on the property of the company or in connection with the operation thereof, setting forth—

- (a) the causes and natures of such accidents and casualties;
- (b) the points at which such accidents and casualties occurred, and whether by night or by day; and
- (c) the full extent of such accidents and casualties, and all the particulars thereof.

(2) Such return shall be made for the period beginning from the date to which the then last return made by the company extended, or, if no such return had been previously made, from the commencement of the operation of the railway and ending with the last day of June in the current year.

Copies of
by-laws
to be
furnished.

(3) Every company shall also, when required by the Board, return a true copy of the existing by-laws of the company and of its rules and regulations for the management of the company and of its railway, or of such other undertaking or business of the company as it is authorized to carry on. 3-4 Geo. V. c. 36, s. 273.

Additional
returns of
accidents.

274. The Board may order and direct any company to make up and deliver to the Board from time to time, in addition to such periodical returns, returns of serious accidents occurring in the course of the public traffic upon the railway belonging to such company, whether attended with personal injury or not, in such form and manner as the Board deems necessary and requires for its information with a view to public safety. 3-4 Geo. V. c. 36, s. 274.

Forms.

275. The Board may order and direct the form in which such returns shall be made. 3-4 Geo. V. c. 36, s. 275.

Returns to
Board of.

276.—(1) The Board may, from time to time, by notice served upon the company, or any officer, servant or agent of the company, require it, or such officer, servant or agent, to furnish the Board, at or within any time stated in such notice, a written statement or statements showing in so far, and with such detail and particulars, as the Board requires,

Assets and
liabilities.

(a) the assets and liabilities of the company;

Of stock
issued and
outstanding.

(b) the amount of its stock issued and outstanding and the date at which any such stock was so issued;

Considera-
tion for
issue.

(c) the amount and nature of the consideration received by the company for such issue, and in case the whole of such consideration was not paid to the company in cash, the nature of the service rendered to or property received by the company for which any stock was issued;

Of earnings
and expen-
diture.

(d) the gross earnings or receipts or expenditure by the company during any periods specified by the Board, and the purposes for which such expenditure was made;

Of bonuses.

(e) the amount and nature of any bonus, gift or subsidy received by the company from any source whatsoever, and the source from which and the time when, and the circumstances under which, the same was so received or given;

Of bonds.

(f) the bonds issued at any time by the company, and what portion of the same are outstanding and what portion, if any, have been redeemed;

Consideration
for bonds.

(g) the amount and nature of the consideration received by the company for the issue of such bonds;

- (h) the character and extent of any liabilities outstanding, chargeable upon the property or undertaking of the company, or any part thereof, and the consideration received by the company for any such liabilities, and the circumstances under which the same were created; Of secured liabilities.
- (i) the cost of construction of the company's railway or of any part thereof; Of cost of acquirements.
- (j) the amount and nature of the consideration paid or given by the company for any property acquired by it; Of cost of property.
- (k) the particulars of any lease, contract or arrangement entered into between the company and any other company or person; and Of leases and contracts.
- (l) generally, the extent, nature, value and particulars of the property, earnings, and business of the company. Generally.

(2) The Board may summon, require the attendance of, and examine under oath, any officer, servant or agent of the company, or any other person, as to any matters included in such return, or which were required by the notice aforesaid to be returned to the Board, and as to any matter or thing which, in the opinion of the Board, is relevant to such return, or to any inquiry which the Board deems it expedient to make in connection with any of the matters in this section mentioned, and for such purposes may require the production to the Board of any books or documents in control of the company, or of such officer, servant, agent or person. Powers of Board as to evidence respecting returns. Or on inquiries respecting same. Production of documents.

(3) Any information furnished to the Board by any such return, or any evidence taken by the Board in connection therewith, shall not be open to the public or published, but shall be for the information of the Board only. Information for Board only.

(4) The Lieutenant-Governor in Council may nevertheless require the Board to communicate to him in Council any or all information obtained by it in manner aforesaid. Or for Lieut.-Gov. ernor in Council.

(5) The Board may authorize any part of such information to be made public when and in so far as there may appear to the Board to be good and sufficient reasons for so doing, but if the information so proposed to be made public by the Board is of such a character that the company would, in the opinion of the Board, be likely to object to the publication thereof, the Board shall not authorize such information to be published without notice to the company and hearing any objection which the company may make to such publication. 3-4 Geo. V. c. 36, s. 276. Board may authorize publication.

277. If any company or officer, servant, or agent thereof fails or neglects to make any of the returns required by this Act or by the Board under the authority thereof when and Refusal to make returns.

Penalties.

Rev. Stat. c. 90.

as required by the Board, or fails to make any such return to the utmost of its or his knowledge or means of knowledge, the company, and every such officer, servant or agent, so in default, shall severally incur a penalty recoverable under *The Ontario Summary Convictions Act* not exceeding \$10 for every day during which such default continues. 3-4 Geo. V. c. 36, s. 277.

Making false
returns
to Board.

Rev. Stat. c. 90.

278.—(1) If any company, or officer, servant or agent thereof wilfully or negligently makes any false return, or any false statement in any such return, the company, and any such officer, servant or agent offending shall be severally liable to a penalty not exceeding \$500, recoverable under *The Ontario Summary Convictions Act*.

Penalty.

(2) Every such officer, servant or agent so offending shall also, on conviction, be liable to imprisonment for any period not exceeding six months. 3-4 Geo. V. c. 36, s. 278.

INVESTIGATION OF ACCIDENTS.

Notice of
accident.

279.—(1) Every company shall, as soon as possible, and immediately after the head officers of the company have received information of the occurrence upon the railway belonging to such company of any accident attended with personal injury to any person using the railway or to any employee of the company, or whereby any bridge, viaduct, culvert or tunnel on or of the railway has been broken or so damaged as to be impassable or unfit for immediate use, give notice thereof, with full particulars, to the Board.

Penalty for
omission.

(2) Every company which wilfully and negligently omits to give such notice shall incur a penalty of \$100 for every day during which the omission to give the same continues.

Form of
notice and
investigation
into accidents.

(3) The Board may, by regulation, declare the manner and form in which such information and notice shall be given and the class of accidents to which this section shall apply, and may declare any such information so given to be privileged.

Inquiries.

(4) The Board may inquire into all matters and things which it deems likely to cause or prevent accidents, and the causes of, and the circumstances connected with, any accident or casualty to life or property occurring on any railway, and into all particulars relating thereto.

Order
thereupon.

(5) The Board may order the company to suspend or dismiss any employee of the company whom it may deem to have been wilfully negligent in respect of any such accident.

Inclusion
in annual
report.

(6) The Board shall include in its annual report to the Lieutenant-Governor in Council the result of any such enquiry with such recommendations as to it may seem proper. 3-4 Geo. V. c. 36, s. 279.

280. Returns and notices relating to accidents made or given in pursuance of the provisions of this Act shall not be admissible in evidence in any court except to enforce the penalties for failure or neglect to furnish a return where it is incomplete or inaccurate. 3-4 Geo. V. c. 36, s. 280.

When admissible as evidence.

ANIMALS AT LARGE.

281.—(1) When any horse, sheep, swine or other cattle at large, whether upon the highway or not, get upon the property of the company and by reason thereof damage is caused to or by such animal the person suffering such damage shall, subject to the provisions of the next following section, be entitled to recover the amount of such damage in any court of competent jurisdiction unless the company establishes that such animal got at large through the negligence or wilful act or omission of the owner or his agent, or of the custodian of such animal or his agent; but nothing herein shall be construed as relieving any person from the penalty imposed by section 283.

Damages caused to or by cattle on railway.

Proviso.

(2) No horses, sheep, swine or other cattle shall be permitted to be at large upon any highway within half a mile of the intersection of such highway with any railway at rail-level, unless they are in charge of some competent person or persons to prevent their loitering or stopping on such highway at such intersection, or straying upon the railway.

Cattle not allowed at large near railway.

(3) The fact that any such animal was not in charge of some competent person shall not, if the animal was killed or injured upon the property of the company and not at a point of intersection with the highway, deprive the owner of his right to recover.

When killed on property of company.

(4) All horses, sheep, swine or other cattle found at large contrary to the provisions of this section may, by any person who finds them at large, be impounded in the pound nearest to the place where the same are so found, and the pound-keeper with whom they are impounded shall detain them in like manner, and subject to like regulations as to the care and disposal thereof as in the case of cattle impounded for trespass on private property.

Cattle may be impounded.

(5) If the horses, sheep, swine or other cattle of any person, which are at large contrary to the provisions of this section, are killed or injured by any train at such point of intersection he shall not have any right of action against any company in respect of the same being so killed or injured.

Right of action negatived.

(6) This section shall apply only to railways operating by steam or electricity upon a right of way owned by the company. 3-4 Geo. V. c. 36, s. 281.

Application of section.

282. No person who suffers damage, proveable under the next preceding section or by reason of the company failing

No right of action if

to comply with section 114, shall have any right of action against such company for such damage if it was quashed by reason of any person

gates not
closed.

- (a) for whose use any farm crossing is furnished failing to keep the gates at each side of the railway closed when not in use; or,

Or wilfully
left open.

- (b) wilfully leaving open any gate on either side of the railway provided for the use of any farm crossing, without some person being at or near such gate to prevent animals from passing through the gate on to the railway; or

Or fence
taken down.

- (c) other than an officer or employee of the company while acting in the discharge of his duty taking down any part of a railway fence; or

Or cattle
turned within
railway
enclosure.

- (d) turning any such horse, sheep, swine or other cattle upon or within the inclosure of any railway, except for the purpose of and while crossing the railway in charge of some competent person using all reasonable care and precaution to avoid accidents; or,

Or railway
used with-
out consent.

- (e) except as authorized by this Act, without the consent of the company, riding, leading or driving any such horse, sheep, swine or other cattle, or suffering the same to enter upon any railway, and within the fences and guards thereof.
3-4 Geo. V. c. 36, s. 282.

OFFENCES AND PENALTIES.

Offences.

283. Every person who

Leaving
gates open.

- (a) wilfully leaves open any gate on either side of the railway, provided for the use of any farm crossing, without some person being at or near such gate to prevent animals passing through it on to the railway; or,

Taking down
fences.

- (b) not being an officer or employee of the company acting in the discharge of his duty, takes down any part of a railway fence; or

Turning
animals
into railway
inclosure.

- (c) turns any horse, sheep, swine or other cattle upon or within the inclosure of any railway, except for the purpose of and while crossing the railway in charge of some competent person, using all reasonable care and precaution to avoid accidents; or

Allowing
animals to
go upon
railway.

- (d) except as authorized by this Act, without the consent of the company, rides, leads or drives any horse, sheep, swine or other cattle, or suffers any

such horse or animal to enter upon the railway,
and within the fences and guards thereof;

shall for every such offence incur a penalty of \$20, recover- Penalty.
able under *The Ontario Summary Convictions Act*. Rev. Stat. c. 90.

(2) Every such person shall also be liable to the company Damages to
for any damage to the property of the company, or for which the company.
the company may be responsible by reason of any such act or
omission.

(3) Every person guilty of any offence under this section Damages to
shall, in addition to the penalty and liability therein provided, person
be liable to pay to any person injured by reason of the com- injured.
mission of such offence all damages thereby sustained.
3-4 Geo. V. c. 36, s. 283.

284.—(1) No company shall, either directly or indirectly, Purchasing
employ any of its funds in the purchase of its own stock or in stock in
the acquisition of any shares, bonds or other securities issued other com-
by any other railway company; but this shall not affect the panies.
powers or rights, if any, which any company in Ontario now
has or possesses by virtue of any special Act to acquire, have
or hold shares, bonds or other securities of any railway com-
pany.

(a) The acquisition of each share, bond or other security,
or interest, shall be deemed a separate contraven-
tion of this subsection.

(2) Every director of a railway company who knowingly Liability of
permits the funds of such company to be applied, either directors.
directly or indirectly, in contravention of subsection 1 shall
incur a penalty of \$500 for each such contravention.

(3) Such penalty shall be recoverable on information filed Penalty,
in the name of the Attorney-General, and one-half thereof recovery
shall belong to His Majesty and the other half thereof shall and appli-
belong to the informer. 3-4 Geo. V. c. 36, s. 284. cation.

285.—(1) Every person not connected with the railway, Walking
or employed by the company, who walks along the track on track
thereof, except where the same is laid across or along a high- prohibited.
way, shall incur a penalty not exceeding \$10, recoverable Penalty.
under *The Ontario Summary Convictions Act*. Rev. Stat. c. 90.

(2) Every person who

(a) wilfully breaks down, injures, weakens or destroys Destruction
any gate, fence, erection, building or structure of of fences,
a company; or bridges, etc.

(b) removes, obliterates, defaces or destroys any printed Defacing
or written notice, direction, order, by-law or notices, etc.
regulation of a company, or any section of or
extract from this Act or any other Act of this
Legislature which a company or any of its officers

or agents have caused to be posted, attached or affixed to or upon any fence, post, gate, building or erection of the company, or any car upon any railway;

Fraudulently attempting to travel without paying fare.

- (c) enters upon any railway train without the knowledge or consent of an officer or servant of the company with intent fraudulently to be carried upon such railway train without paying fare thereon;

Obstructing railway authorities.

- (d) wilfully obstructs or impedes any officer or agent of any company in the execution of his duty upon any train, railway, or upon any of the premises of the company; or,

Trespassing.

- (e) not being an employee of the company, wilfully trespasses by entering upon any of the stations, cars or buildings of the company in order to occupy the same for his own purposes,

Penalty.

shall incur a penalty not exceeding \$50, recoverable under Rev. Stat. c. 90. *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 285.

Using level crossings.

286. Any person who uses any highway crossing at rail level for the purpose of passing on foot along such highway across the railway, except during the time when such highway crossing is used for the passage of carriages, carts, horses, sheep, swine or cattle along such highway, shall incur a penalty not exceeding \$10, recoverable under *The Ontario Summary Convictions Act* if

Penalty.

Rev. Stat. c. 90.

If foot-bridge.

- (a) the company has erected and completed, pursuant to the order of the Board, over its railway at or near, or in lieu of, such highway crossing a foot bridge, or foot bridges, for the purpose of enabling persons passing on foot along such highway to cross the railway by means of such bridge or bridges; and

Maintained.

- (b) such foot bridge is maintained, or such foot bridges are maintained, by the company in good and sufficient repair. 3-4 Geo. V. c. 36, s. 286.

Penalty for erection, etc., of structures in violation of this Act.

287. Every company which erects, operates or maintains any bridge, approach, tunnel, viaduct, trestle, or any building, erection or structure, in violation of this Act or of any order or regulation of the Board, shall, for each offence, incur a penalty of \$50. 3-4 Geo. V. c. 36, s. 287.

Liability of company, directors, etc., in certain cases.

288.—(1) Any company, or any director or officer thereof, or any receiver, trustee, lessee, agent or person acting for or employed by such company, that does, causes or permits to be done any matter, act or thing contrary to the provisions of this or the special Act, or to the orders or direc-

tions of the Lieutenant-Governor in Council, or of the Board made hereunder, or omits to do any matter, act or thing thereby required to be done on the part of any such company, or person, shall, if no other penalty is provided in this or the special Act for any such act or omission, incur, for each offence, a penalty of not less than \$20 and not more than \$5,000, in the discretion of the court before which the same is recoverable. Penalty.

(2) Such company, director, officer, receiver, trustee, lessee, agent or person shall also, in any case, in addition to any such penalty, be liable to any person injured by any such act or omission for the full amount of damages sustained thereby, and such damages shall not be subject to any special limitation, except as expressly provided for by this or any other Act. 3-4 Geo. V. c. 36, s. 288. Liability for damage.

289. Every person who sells, gives or barter any spirituous or intoxicating liquor to or with any servant or employee of any company while on duty shall incur a penalty not exceeding \$25 recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 289. Selling liquor to railway employees on duty.
Rev. Stat. c. 90.

290. Every conductor, locomotive engineer, motorman, train despatcher, telegraph operator, station agent, switchman, signal man, bridge tender, or any other person who is intoxicated or under the influence of liquor while on duty, in charge of or in any employment having to do with the movement of trains upon any railway, shall incur a penalty not exceeding \$400, recoverable under *The Ontario Summary Convictions Act*, and shall, upon conviction, also be liable to imprisonment for any term not exceeding five years, or both, in the discretion of the court before which the conviction is had, and according as such court considers the offence proved to be more or less grave as causing injury to any person or property, or as exposing or likely to expose any person or property to injury, although no actual injury occurs. 3-4 Geo. V. c. 36, s. 290. Intoxication while on duty.
Penalty.
Rev. Stat. c. 90.

291. Every person who wilfully or negligently violates any lawful by-law, rule or regulation of the company shall incur, on summary conviction, for each offence a penalty not exceeding the amount therein prescribed or, if no amount is so prescribed, a penalty not exceeding \$20, recoverable under *The Ontario Summary Convictions Act*, but no such person shall be convicted of any offence unless at the time of the commission thereof a printed copy of such by-law, rule or regulation was posted in some conspicuous place at or near the station at which the offender entered the train or in the passenger cars of the train. 3-4 Geo. V. c. 36, s. 291. Contravention of rules of company.
Penalty.
Rev. Stat. c. 90.

Damaging
freight with
intent to
steal contents.

292. Every person who unlawfully

(a) bores, pierces, cuts, opens or otherwise injures any cask, box or package which contains wine, spirits or other liquors, or any case, box, sack, wrapper, package or roll of goods in, on or about any car, wagon, boat, vessel, warehouse, station house, wharf, quay or premises of or belonging to any company, or

Drinking or
wasting liquor.

(b) drinks or wilfully spills or allows to run to waste any such liquors or any part thereof

Penalties.

Rev. Stat. c. 90.

shall incur a penalty not exceeding \$20, recoverable under *The Ontario Summary Convictions Act*, and shall be liable to the person aggrieved for any damages sustained by reason of such wrongful act. 3-4 Geo. V. c. 36, s. 292.

Interfering
with electric
wires, poles
etc., or
notices.

293. Every person who wilfully breaks down, injures, weakens, destroys or interferes with any pole, wire, insulator, structure or erection for carrying wires of an electric railway company, or for the transmission of electric power, or who shoots at any insulator on any such poles, erections or structures with fire-arms of any kind, or throws stones or other missiles at, or breaks, or attempts to break the same in any way, or flings or causes to be placed any wire, rope, string or stick at, upon or across the said wires, or without authority climbs any of such poles or structures or erections used for transmitting electric current, or removes, obliterates, defaces or destroys any printed or written notice, direction, order, by-law or regulation of the Board or of the company or any section or extract from this Act or any other Act of this Legislature, attached or affixed to or upon any pole, tower, fence, post, gate, building or erection of the company, shall incur a penalty not less than \$15 and not exceeding \$100, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 36, s. 293.

Rev. Stat. c. 90.

Each day's
contravention
of this Act, or
order
hereunder,
a distinct
offence.

294. When the violation of, or failure to comply with, any provision of this Act, or with any regulation, order or direction of the Board, or of any inspecting engineer, is made an offence subject to penalty, by this Act or by any regulation made thereunder, each day's continuance of such violation or failure to comply shall constitute a new and distinct offence. 3-4 Geo. V. c. 36, s. 294.

Act or omis-
sion of
officer, etc.,
deemed to
be act or
omission of
company.

295.—(1) For the purpose of enforcing any penalty under any of the provisions of this Act, or enforcing any regulation, order, or direction of the Board, or of any inspecting engineer, made under this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by the company shall, if within the scope of his employment, in every case be also deemed to be the act, omission or failure of such company as well as that of the person.

(2) Anything done or omitted to be done by the company, which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by the company, would constitute an offence under this Act, shall also be held to be an offence committed by such company, and upon conviction thereof the company shall be subject to the like penalties as are prescribed by this Act with reference to such persons. 3-4 Geo. V. c. 36, s. 295.

296. No penalty or punishment for a contravention of this Act or of the special Act by the company shall exempt the company from the forfeiture of the privileges or franchise conferred on it by such Acts, or by any agreement between the company and any municipal corporation if, by the provisions thereof or by law, the same be subject to forfeiture by reason of such contravention. 3-4 Geo. V. c. 36, s. 296.

RECOVERY OF PENALTIES.

297. If any company has been adjudged to pay a penalty under this Act such penalty shall be the first lien or charge upon the railway, property, assets, rents and revenues of the company. 3-4 Geo. V. c. 36, s. 297.

298. No prosecution shall be had against any company or any municipal corporation for any penalty under this Act where the penalty may exceed \$100 without the leave of the Board being first obtained. 3-4 Geo. V. c. 36, s. 298.

299. All penalties incurred under any of the sections of this Act, unless otherwise provided, may be recovered by action in the name of His Majesty by the Attorney-General of Ontario; and all penalties recovered under this Act shall, unless otherwise herein expressly provided, be paid to the Treasurer of Ontario to the credit of "The Consolidated Revenue Fund." 3-4 Geo. V. c. 36, s. 299.

TRANSMISSION OF POWER ON RIGHT OF WAY.

300. Upon receiving authority in that behalf from the Lieutenant-Governor in Council, the Board, its officers, agents and servants may at all times enter upon the right of way of the company and may dig up the same, erect thereon all necessary poles, or lay all necessary conduits, and erect, place and put down all cables, wires and poles for the transmission of electrical or other power from any point in Ontario to the works and plant of any municipal corporation for the distribution of such power within the limits of the municipality, but the track and traffic, wires and poles of the company shall not be injured, removed or otherwise dealt with in the exercise of the powers hereby conferred except under and subject

to any agreement which may be entered into between the Lieutenant-Governor in Council and the company. 3-4 Geo. V. c. 36, s. 300.

USE OF RAILWAY BY DOMINION GOVERNMENT.

Provision as to the carriage of His Majesty's mail, etc.

301.—(1) His Majesty's mail, His Majesty's naval or military forces or militia, and all artillery, ammunition, provisions or other stores for their use, and all policemen, constables and others travelling on His Majesty's service shall at all times, when required by the Postmaster-General, the Commander of the Forces, or any person having the superintendence and command of any police force, and with the whole resources of the company if required, be carried on the railway on such terms and conditions and under such regulations as may be made by the Governor-General in Council or the Lieutenant-Governor in Council.

Government to have exclusive use of telegraph.

(2) The company shall, when required so to do by the Governor-General or Lieutenant-Governor, or by any person thereunto authorized by either of them, place any electric, telegraph and telephone lines, and any apparatus and operators which it has, at the exclusive service of his Government, receiving thereafter reasonable compensation for such service. 3-4 Geo. V. c. 36, s. 301.

CONVEYANCES OF LAND.

Conveyances of land to Company.

302. Conveyances of land to the company, for the purposes of and powers given by this Act, made in the form set forth in Schedule "A" to this Act or to the like effect, shall be sufficient conveyance to such company, its successors and assigns of the estate or interest therein mentioned, and sufficient bar of dower respectively of all persons executing the same; and such conveyances shall be registered in the same manner, and upon such proof of execution as is required under the registry laws of Ontario; and no registrar shall be entitled to demand more than seventy-five cents for registering the same, including all entries and certificates thereof, and the certificates indorsed on the duplicates thereof. 3-4 Geo. V. c. 36, s. 302.

SCHEDULE "A."

(Section 302.)

Know all men by these presents that I (or we) (*insert the name or names of the vendor or vendors*) in consideration of dollars paid to me (or us) by The

Railway Company, the receipt whereof is hereby acknowledged, do grant and convey unto the said company, and I (or we) (*insert the name or names of any other party or parties*) in consideration of

dollars paid to me (or us) by the said company, the receipt whereof is hereby acknowledged, do grant and release all that certain parcel (or those certain parcels, *as the case may be*) of land (*describe the land*) the same having been selected and laid out by the said company for the purpose of its railway, to hold with the appurtenances unto the said The Railway Company, their successors and assigns forever (*here insert any other clauses, covenants and conditions required*), and I (or we) the wife (or wives) of the said do hereby bar my (or our) dower in the said lands.

As witness my (or our) hand and seal (or hands and seals), this
day of one thousand nine
hundred and
Signed, sealed and delivered
in the presence of

CHAPTER 186.

An Act respecting the Ontario Railway and
Municipal Board.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

- Short title.** 1. This Act may be cited as *The Ontario Railway and Municipal Board Act*. 3-4 Geo. V. c. 37, s. 1.
- Interpre-
tation.** 2. The interpretation sections of *The Ontario Railway Act* shall apply to this Act. 3-4 Geo. V. c. 37, s. 2.
3. In this Act,
- "Public
utility."** (a) "Public Utility" shall mean and include any waterworks, gasworks, electric heat, light and power works, and telegraph or telephone lines or any works supplying the general public with necessities or conveniences.
- "Railway."** (b) "Railway" shall include a street railway. 3-4 Geo. V. c. 37, s. 3.
- Application
of Act.** 4. The provisions of this Act relating to railways shall apply to all railways, whether operated by steam, electricity or other motive power, including street railways. 3-4 Geo. V. c. 37, s. 4.

CONSTITUTION OF THE BOARD.

- Appointment.** 5.—(1) The Lieutenant-Governor in Council may, from time to time, appoint a commission to be called "the Ontario Railway and Municipal Board."
- Members.** (2) The Board shall be composed of three members, one of whom shall be appointed by the Lieutenant-Governor in Council to be the chairman and another to be the vice-chairman, and each of them shall continue so to be while he is a member of the Board.
- Vacancies.** (3) Vacancies caused by death, resignation or otherwise may be filled by the Lieutenant-Governor in Council, but a vacancy shall not impair the power of the remaining members to act.
- Powers of
a Court
of Record.** (4) The Board shall have all the powers of a Court of Record and shall have an official seal which shall be judicially noticed.

(5) The members of the Board shall hold office during ^{Tenure of office.} pleasure.

(a) Provided, however, a member of the Board shall cease to hold office upon reaching the age of seventy-five years; and

(b) The Chairman of the Board, if at the time of his appointment a barrister of at least ten years standing at the bar, shall not be removed at any time by the Lieutenant-Governor in Council, except upon an address of the Assembly.

(6) Whenever

(a) any power or authority is given to or duty imposed upon the Railway Committee of the Executive Council of Ontario by any Act or document; ^{Powers, etc., of Railway Committee transferred to Board.}

(b) by any Act of this Legislature the location of any line of railway or the route and course thereof, or the maps, plans, and specifications, or any part of the equipment, are subject to the approval of the Lieutenant-Governor in Council or of any of his Ministers; ^{Location of line.}

such power or authority may be exercised and such duty shall be performed and such approval may be given by the Board.

(7) Whenever in any Act it is provided that any railway company shall, during construction of any line of railway, furnish such information as to the location and plans of passenger or freight stations as may from time to time be required by the Lieutenant-Governor or any of his Ministers, or that such company shall comply with any directions that may be given for the erection of stations, or the number of them, such information shall be furnished to the Board and its directions shall be complied with by the company. 3-4 Geo. V. c. 37, s. 5. ^{Furnishing information.}

6.—(1) In case of the absence of the Chairman, or of his inability to act, or of a vacancy in the office, the Vice-chairman shall exercise the powers of the chairman for or instead of the Chairman, and in such case all regulations, orders and other documents signed by the Vice-chairman shall have the like force and effect as if signed by the Chairman. ^{Power of Vice-Chairman.}

(2) Whenever the Vice-chairman appears to have acted for and instead of the Chairman, it shall be conclusively presumed that he so acted in the absence or disability of the Chairman within the meaning of this section. 3-4 Geo. V. c. 37, s. 6. ^{Presumption of having duly acted.}

7. Two members shall form a quorum and, except as provided by section 8, not less than two members shall attend at

Questions
of law.

the hearing of every case, and the Chairman, when present, shall preside, and his opinion upon any question of law shall prevail. 3-4 Geo. V. c. 37, s. 7.

Where
applications
unopposed.

8. In any case in which there is no opposing party, and no notice to be given to any interested party, any one member may act alone for the Board. 3-4 Geo. V. c. 37, s. 8.

Reference
to a
member.

9. The Board or the Chairman may authorize any one of the members to report to the Board upon any question or matter arising in connection with the business of the Board, and when so authorized such member shall have all the powers of two members sitting together for the purpose of taking evidence or acquiring the necessary information for the purpose of such report, and upon such report being made to the Board, it may be adopted as the order of the Board, or otherwise dealt with as to the Board seems proper. 3-4 Geo. V. c. 37, s. 9.

Appoint-
ments *pro*
hac vice.

10. Whenever any member is interested in any matter before the Board, the Lieutenant-Governor in Council may, upon the application of such member or otherwise, appoint some disinterested person to act as a member, *pro hac vice*, and the Lieutenant-Governor in Council may also appoint a member during sickness, absence or inability to act of any member. 3-4 Geo. V. c. 37, s. 10.

Prohibition
against
holding rail-
way stock,
etc.

11.—(1) No member or officer of the Board shall, directly or indirectly,

(a) hold, purchase, take or become interested in any stock, share, bond, debenture or other security, of any railway company, street railway company or public utility subject to this Act; or,—

Or having
interest in
appliances.

(b) have any interest in any device, appliance, machine, patented process or article, or any part thereof, which may be required or used as a part of the equipment of railways or of street railways, or of any rolling stock to be used thereon, or of any such public utility.

Duty to
dispose of
interest.

(2) If any such stock, share, bond or other security, device, appliance, machine, patented process or article, or any part thereof, or any interest therein, shall come to or vest in any member or officer of the Board by will or succession for his own benefit he shall, within three calendar months after the same shall so come to or vest in him, absolutely sell and dispose of the same or his interest therein.

Members of
Board not
to be officers
or directors
of certain
companies.

(3) No member or officer of the Board shall act as director or officer of any public utility company or of any company which has power to invest any portion of its funds in the securities of a railway, street railway, or public utility company. 3-4 Geo. V. c. 37, s. 11.

12. The members shall devote the whole of their time to the performance of their duties under this Act, and shall not accept or hold any office or employment inconsistent with this section. 3-4 Geo. V. c. 37, s. 12. Exclusive attendance to duties.

13. The Lieutenant-Governor in Council shall provide, within the City of Toronto, a suitable place in which the sittings of the Board may be held, and also suitable offices for the members, secretary, staff and other employees, and all necessary furnishings, stationery and equipment for the establishment, conduct and maintenance of the same, and for the performance of the duties of the Board. 3-4 Geo. V. c. 37, s. 13. Offices at Toronto.

14.—(1) The Board shall sit at such times and places and conduct its proceedings in such manner as may seem to it most convenient for the speedy despatch of business. Sittings of Board.

(2) The sittings may be either private or open to the public, but any complaint made to the Board shall, on the application of any party to the complaint, be publicly heard and determined. 3-4 Geo. V. c. 37, s. 14. Private or public.

15.—(1) Where sittings of the Board, or of any member thereof, are appointed to be held in any city, town or place in which a court house is situate the member presiding at any such sittings shall have, in all respects, the same authority as a Judge of the Supreme Court in regard to the use of the court house and other buildings or apartments set apart in the county or district for the administration of justice. Use of court house.

(2) Where sittings are appointed to be held in any municipality in which there is a hall belonging to the corporation of the municipality but no court house the corporation of the municipality shall allow such sittings to be held in such hall. 3-4 Geo. V. c. 37, s. 15. Use of town hall.

16.—(1) There shall be a Secretary of the Board, who shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure. Secretary.

- (2)** It shall be the duty of the Secretary to
- (a)** attend all sittings of the Board; Duties of Secretary.
Attend sittings.
 - (b)** keep a record of all proceedings conducted before the Board or any member; Keep minutes.
 - (c)** have the custody and care of all records and documents belonging or appertaining to the Board, or filed in his office; Custody of records.
 - (d)** obey all rules and directions made or given by the Board touching his duties or his office; Obey directions.

Authentica-
tion of
regulations
and orders.

(e) see that every regulation and order made by the Board is drawn pursuant to the direction of the Board, properly authenticated, and filed in his office;

Record
books.

(f) keep in his office suitable books of record, in which he shall enter a true copy of every such regulation and order and every other document which the Board may require to be entered therein, and such entry shall constitute and be the original record of any such regulation or order. 3-4 Geo. V. c. 37, s. 16.

Certified
copies of
regulations
or orders.

17. Upon application of any person, and on payment of such fees as the Board may prescribe, the Secretary shall deliver to such person a certified copy of any such regulation or order. 3-4 Geo. V. c. 37, s. 17.

Acting
Secretary.

18. In the absence of the Secretary the Board may appoint from its staff a Secretary *pro tempore*, who shall act in the place of the Secretary, or a member of the Board may act as Secretary. 3-4 Geo. V. c. 37, s. 18.

Salaries.

19.—(1) The Chairman shall be paid an annual salary of \$6,000, and each of the other two members shall be paid an annual salary of \$4,000 and the Secretary shall be paid an annual salary to be fixed by the Lieutenant-Governor in Council not exceeding \$2,400.

How
payable.

(2) Such salaries shall be payable out of the Consolidated Revenue Fund and shall be paid *pro rata* for any period less than a year. 3-4 Geo. V. c. 37, s. 19.

Experts.

20.—(1) The Lieutenant-Governor in Council may from time to time, upon the request of the Board, appoint one or more experts, or persons having technical or special knowledge of the matters in question, to assist in an advisory capacity in respect of any matter before the Board.

Staff of
Board.

(2) There shall be attached to the Board such officers, clerks, stenographers and messengers as the Board, with the approval of the Lieutenant-Governor in Council, from time to time appoints, and the Board may, with the approval of the Lieutenant-Governor in Council, dismiss any of them.

Salaries.

(3) The officers, clerks, stenographers and messengers attached to the Board shall receive such salaries or remuneration as may be approved by the Lieutenant-Governor in Council upon the recommendation of the Board.

Remuneration
of appointee
to make
inquiry.

(4) Whenever the Board, by virtue of any power vested in it by this Act or any other Act, appoints or directs any person, other than a member of the staff of the Board, to perform any service required by this Act or such other Act, such person shall be paid such sum for services and expenses as

the Lieutenant-Governor in Council may, upon the recommendation of the Board, determine.

(5) The salaries or remuneration of all such officers, clerks, stenographers, messengers, and appointees, and all the expenses of the Board incidental to the carrying out of this Act or such other Act, including all actual and reasonable travelling expenses of the members, Secretary, and of such appointees or persons on the staff of the Board as may be required by the Board to travel, necessarily incurred in attending to the duties of their offices, shall be paid monthly out of moneys appropriated by this Legislature for that purpose. 3-4 Geo. V. c. 37, s. 20.

Salaries and expenses of staff, etc., how to be paid.

JURISDICTION AND GENERAL POWERS.

21.—(1) The Board shall have jurisdiction to enquire into, hear and determine any application by or on behalf of any person interested, complaining that any company, person or municipal corporation, constructing, maintaining or operating any railway, street railway, telegraph or telephone system, or any public utility, or having the control thereof, or charged with the performance of any duty or the exercise of any power in relation thereto—

Jurisdiction of Board upon application.

- (a) has failed to do any act, matter or thing required to be done by this Act or by any other general or special Act, or by any regulation, order or direction made thereunder or by any agreement entered into by the company, person or municipal corporation, or by any stipulation or condition in a municipal by-law accepted or acted upon by the company, person or municipal corporation; Neglect of duty under any Act, regulation, order or agreement.
- (b) has done or is doing any act, matter or thing contrary to or in contravention of this Act, or any such other Act, or any such regulation, order or direction, or any such agreement, stipulation, or condition; or Contravention of Act, etc.
- (c) is charging tolls in excess of those approved or prescribed by lawful authority, or which are otherwise unlawful, unfair or unjust; Charging excessive tolls.

and requesting the Board to make any order, or give any direction, sanction or approval which by law it is authorized to give or make. Giving orders, directions or approval.

(2) The Board may order and require any company, person or municipal corporation to do forthwith or within or at any specified time, and in any manner prescribed by the Board, so far as is not inconsistent with this Act, any act, matter, or thing which such company, person, or municipal corporation is or may be required to do under this Act, or

General powers.

under any other general or special Act, and may forbid the doing or continuing of any act, matter or thing which is in contravention of any such Act or of any such regulation, order, direction, agreement or by-law.

Questions
of law
and fact.

(3) The Board shall, as to all matters within its jurisdiction, have authority to hear and determine all questions of law or of fact.

Powers of
amendment,
etc., etc.

(4) The Board shall, as respects the amendment of proceedings, the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the entry on and inspection of property, and other matters necessary or proper for the due exercise of its jurisdiction, or otherwise for carrying this Act or any other general or special Act into effect, have all such powers, rights and privileges as are vested in the Supreme Court.

Jurisdiction
where
receiver,
etc., acting
under
authority
of court.

(5) The fact that a manager or other official of any railway, street railway or public utility, or a liquidator or receiver has been appointed by, or is managing or operating a railway, street railway or public utility under the authority of any court, shall not be a bar to the exercise by the Board of any jurisdiction conferred by this Act or by any other general or special Act; but every such liquidator, receiver, manager or official shall be bound to manage and operate such railway, street railway or public utility in accordance with this Act and with the orders and directions of the Board, whether general or referring particularly to such railway, street railway or public utility; and he, and every person acting under him, shall obey all orders of the Board in respect of such railway, street railway or public utility, and be subject to have them enforced against him by the Board, notwithstanding the fact that such manager, official, liquidator or receiver is appointed by or acts under the authority of any court.

Parties.
Decision of
Board final.

(6) The decision of the Board, as to whether any company, person or municipal corporation is or is not a party interested within the meaning of this section, shall be binding and conclusive upon all companies, persons and municipal corporations.

Powers of
Hydro-
Electric
Power Com-
mission.
Rev. Stat. c. 39.

(7) Nothing in this section shall confer upon the Board any jurisdiction as to matters which, under *The Power Commission Act* and the amendments thereto, are within the jurisdiction of The Hydro Electric Power Commission of Ontario. 3-4 Geo. V. c. 37, s. 21.

Board's
jurisdiction
exclusive.

22. The Board shall have exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this Act or by any other general or special Act. 3-4 Geo. V. c. 37, s. 22.

23.—(1) The Board may, of its own motion, and shall, ^{When Board may} upon the request of the Lieutenant-Governor in Council, ^{act.} inquire into, hear and determine any matter or thing which it may inquire into, hear and determine upon application or complaint, and with respect thereto shall have and may exercise the same powers as, upon any application or complaint, are vested in it.

(2) Any power or authority vested in the Board under this Act or any other Act may, though not so expressed, be ^{Power to act from time to time.} exercised from time to time, or at any time, as the occasion may require. 3-4 Geo. V. c. 37, s. 23.

24.—(1) The Lieutenant-Governor in Council may from time to time, upon the request of the Board, or of his own ^{Appointment of counsel.} motion, appoint counsel to appear before the Board and conduct any enquiry or hearing or to represent the Board upon the argument of any appeal to a Divisional Court.

(2) The Board may direct that the costs of such counsel ^{Costs.} shall be paid by any party to the application, proceeding or matter, or by the Treasurer of Ontario. 3-4 Geo. V. c. 37, s. 24.

25. The Board may rehear any application before deciding it or may review, rescind, change, alter or vary any decision ^{Power to rehear, review, etc.} or order made by it. 3-4 Geo. V. c. 37, s. 25.

26. If default is made by a company or person, or by a ^{Board's powers upon default in obeying order.} municipal corporation, in the doing of any act, matter or thing, which the Board has authority, under this or any other Act, general or special, to direct and was directed to be done, the Board may authorize such person as it may see fit to do the act, matter or thing, and in every such case the person so authorized may do such act, matter or thing, and the expense incurred in the doing of the same may be recovered from the company, person or municipal corporation in default as money paid for and at the request of such company, person, or municipal corporation, and the certificate of the Board of the amount so expended shall be conclusive evidence thereof. 3-4 Geo. V. c. 37, s. 26.

27. The Board shall also have power to enforce its orders ^{Enforcing orders of Board.} and directions in like case and in the manner and by the means provided in section 260 of *The Ontario Railway Act*, ^{Rev. Stat. c. 185.} 3-4 Geo. V. c. 37, s. 27.

PRACTICE AND PROCEDURE.

Notices. Evidence.

28. Any notice required or authorized to be given in ^{Notice, requisites of.} writing,—

- (a) by the Board, may be signed by the Chairman or Secretary;
- (b) by the inspecting engineer, or other officer or person appointed by the Board, may be signed by such inspecting engineer, officer or other person, as the case may be;
- (c) by any company or corporation, may be signed by the president or secretary, or by its duly authorized agent or solicitor; and
- (d) by any person, may be signed by such person or his duly authorized agent or solicitor. 3-4 Geo. V. c. 37, s. 28.

Notices,
how
served.

29.—(1) Any notice required to be given to a company, a municipal or other corporation, co-partnership, firm or individual, shall be deemed to be sufficiently given by delivering the same, or a copy thereof, within the time, if any, limited therefor,—

Railway
company.

- (a) in the case of a railway company, to the president, vice-president, managing director, secretary or superintendent of the company, or to some adult person in the employ of the company at the head or any principal office of the company;

Municipality.

- (b) in the case of a municipal corporation, to the head of the municipality, or to the clerk;

Other
companies.

- (c) in the case of any other company or corporation, to the president, vice-president, manager or secretary, or to some adult person in its employ at its head office;

Co-partnership.

- (d) in the case of a firm or co-partnership, to any member thereof, or, at the last known place of abode of any such member, to any adult member of his household, or at the office or place of business of the firm to a clerk employed therein; and,

Individuals.

- (e) in the case of an individual, to him, or, at his last known place of abode, to any adult member of his household, or, at his office or place of business, to a clerk in his employ.

Service by
publication.

(2) If, in any case within the jurisdiction of the Board, it is made to appear, to the satisfaction of the Board that service of any such notice cannot conveniently be made, in the manner provided in the next preceding subsection, the Board may order and allow such service to be made by the publication of such notice for any period not less than three weeks in the *Ontario Gazette*, and also, if required, in any other newspaper; and such publication in each case shall be

deemed to be equivalent to service in the manner provided in the said subsection.

(3) Any regulation, order, direction, decision, report or other document may, unless in any case otherwise provided, be served in like manner as notice may be given under this section. 3-4 Geo. V. c. 37, s. 29. Service of other documents.

30. Every company and every municipal or other corporation shall, as soon as possible after the receipt by it, or service upon it, of any regulation, order, direction, decision, notice, report or other document of the Board, or of the inspecting engineer, give cognizance thereof to each of its officers and servants performing duties which are or may be affected thereby, by delivering a copy to him or by posting up a copy thereof in some place where his work or his duties, or some of them, are to be performed. 3-4 Geo. V. c. 37, s. 30. Duty of company on receipt of notice or order.

31. Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the Board in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificate of the Secretary, be paid by the county interested the like fees as for similar services at the sittings of the High Court Division for the trial of actions, and such fees shall be charged as expenses of the administration of justice. 3-4 Geo. V. c. 37, s. 31. Duty of sheriffs, etc.

32. Every written or printed document purporting to have been issued or authorized by a company or any officer, agent or employee of a company, or any other person or company for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of such document by the company, and of the contents thereof, without any further proof than the mere production of such document. 3-4 Geo. V. c. 37, s. 32. Effect of documents issued by company.

33.—(1) Every document purporting to be signed by the Chairman and Secretary, or by either of them, or by an inspecting engineer, shall, without proof of the signature, be *prima facie* evidence that such document was duly signed, and shall be sufficient notice to the company and all parties interested, if served in the manner provided by section 29 for service of notice, that such document was duly signed and issued by the Board, or inspecting engineer, as the case may be. Evidence of documents.

(2) If such document purports to be a copy of any regulation, order, direction, decision or report, made or given by the Board, or inspecting engineer, it shall be *prima facie* evidence of such regulation, order, direction, decision or report, and, when served in the manner provided by section 29, shall be sufficient notice of such regulation, order, direction, decision or report from the time of such service. 3-4 Geo. V. c. 37, s. 33. Evidence of regulations, etc., etc.

Certified
plan, etc.,
prima facie
evidence.

34.—(1) Any document purporting to be certified by the Secretary as being a copy of any plan, profile, book of reference or other document deposited with the Board, or of any portion thereof, shall, without proof of signature of the secretary, be *prima facie* evidence of such original document, and that the same is so deposited, and is signed, certified, attested or executed by the persons by whom and in the manner in which the same purports to be signed, certified, attested or executed, as shown or appearing from such certified copy, and also, if such certificate states the time when such original was so deposited, that the same was deposited at the time so stated.

Certified
copies of
documents
of Board.

(2) A copy of any regulation, order or other document in the custody of the Secretary, or of record with the Board, purporting to be certified by the Secretary to be a true copy and purporting to be sealed with the seal of the Board, shall be *prima facie* evidence of such regulation, order or document, without proof of the signature of the Secretary. 3-4 Geo. V. c. 37, s. 34.

Publication
of regula-
tions and
orders.

Judicial
notice.

35. Any rule, regulation, order or decision of the Board, when published by the Board, or by leave of the Board, for three weeks in the *Ontario Gazette*, and while the same remains in force, shall have the like effect as if enacted in this Act, and all courts shall take judicial notice thereof. 3-4 Geo. V. c. 37, s. 35.

Notice of
application.

Board may
vary length
of time.

36. Unless otherwise provided ten days' notice of any application to the Board, or of any hearing by the Board, shall be sufficient, but the Board may in any case direct longer or permit shorter notice of the application. 3-4 Geo. V. c. 37, s. 36.

Procedure
in urgent
cases when
no notice
given.

37.—(1) When the Board is authorized to hear an application, complaint, or dispute, or make any order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the Board to be sufficient, notwithstanding any want of or insufficiency in such notice, make the like order or decision in the matter as if due notice had been given to all parties; and such order or decision shall be as valid and take effect in all respects as if made on due notice.

When
rehearing
in such
cases may
be had.

(2) Any person entitled to notice and not sufficiently notified may, at any time within ten days after becoming aware of such order or decision, or within such further time as the Board may allow, apply to the Board to vary, amend or rescind such order or decision, and the Board shall thereupon, on such notice to other parties interested as it may in its discretion think desirable, hear such application, and either amend, alter or rescind such order or decision, or dismiss the application, as may seem to it just. 3-4 Geo. V. c. 37, s. 37.

Orders of Court.

38.—(1) A certified copy of any order or decision made by the Board under this Act or any general or special Act may be filed in the office of the Clerk of Records and Writs, and shall thereupon become and be enforceable as a judgment or order of the Supreme Court to the same effect, but the order or decision may be nevertheless rescinded or varied by the Board.

Making
decisions or
orders.
Orders of
Court.

(2) It shall be optional with the Board to adopt the method provided by this section for enforcing its orders or decisions or to enforce them by its own action. 3-4 Geo. V. c. 37, s. 38.

Board may
select
method of
enforcing
order.

Terms of Orders.

39.—(1) The Board may direct in any order that the same, or any portion or provision thereof, shall come into force at a future fixed time, or upon the happening of any contingency, event or condition in such order specified, or upon the performance, to the satisfaction of the Board or person named by it, of any terms which the Board may impose upon any party interested, and the Board may direct that the whole, or any portion of such order, shall have force for a limited time, or until the happening of any specified event.

Contingent
orders.

Subject to
terms.

Limited as
to time.

(2) The Board may, instead of making an order final in the first instance, make an interim order and reserve further directions, either for an adjourned hearing of the matter or for further application. 3-4 Geo. V. c. 37, s. 39.

Interim
orders.

40. Upon any application to the Board the Board may make an order granting the whole, or part only, of such application, or may grant such further or other relief in addition to, or in substitution for, that applied for as to the Board may seem just and proper as fully in all respects as if such application had been for such partial, other, or further relief. 3-4 Geo. V. c. 37, s. 40.

May grant
partial or
other relief
than that
applied for.

41. The Board may, if the special circumstances of any case, in its opinion, so require, make an *interim ex parte* order authorizing, requiring or forbidding anything to be done which the Board would be empowered on application, notice and hearing to authorize, require or forbid, but no such order shall be made for any longer time than the Board may deem necessary to enable the matter to be heard and determined. 3-4 Geo. V. c. 37, s. 41.

Interim
ex parte
orders.

42. When any work, act, matter or thing is, by any regulation, order or decision of the Board, required to be done, performed or completed within a specified time the Board may, if the circumstances of the case, in its opinion, so require,

Extension
of time
specified in
order.

upon notice and hearing, or in its discretion upon *ex parte* application, extend the time so specified. 3-4 Geo. V. c. 37, s. 42.

General Rules.

Power to
make rules.

43. The Board may make general rules regulating its practice and procedure. 3-4 Geo. V. c. 37, s. 43.

Other Provisions.

Presump-
tion of
jurisdiction
to make
order.

44. An order of the Board need not show upon its face that any proceeding or notice was had or given, or any circumstance existed, necessary to give it jurisdiction to make such order. 3-4 Geo. V. c. 37, s. 44.

Effect of
finding of
fact in
another court.

45.—(1) In determining any question of fact the Board shall not be concluded by the finding or judgment of any other court in any action, prosecution or proceeding involving the determination of such fact, but such finding or judgment shall, in proceedings before the Board, be *prima facie* evidence only.

Jurisdiction
not affected.

(2) The pendency of any action, prosecution or proceeding in any other court involving questions of fact shall not deprive the Board of jurisdiction to hear and determine the same questions of fact.

Effect of
finding of
Board on
questions of
fact.

(3) The finding or determination of the Board upon any question of fact within its jurisdiction shall be binding and conclusive. 3-4 Geo. V. c. 37, s. 45.

Stating
case for
opinion of
Appellate
Division.

46.—(1) The Board may, at the request of the Lieutenant-Governor in Council, or of its own motion, or upon the application of any party, and upon such security being given as it directs, state a case in writing for the opinion of a Divisional Court upon any question which, in the opinion of the Board, is a question of law.

Action
thereon.

(2) The Divisional Court shall hear and determine such special case and remit the same to the Board with the opinion of the court thereon. 3-4 Geo. V. c. 37, s. 46.

Power of
Lieut.-Gov-
ernor in
Council to
vary or
rescind
orders or
regulations
of the
Board.

47.—(1) The Lieutenant-Governor in Council may, at any time, upon petition of any party, person or company interested, all parties interested having been first heard, vary or rescind any order, decision, rule or regulation of the Board, whether such order or decision is made *inter partes* or otherwise, and whether such regulation is general or limited in its scope and application; and any order which the Lieutenant-Governor in Council may make with respect thereto shall be binding upon the Board and upon all parties.

(2) This section shall apply to orders or decisions here-^{Application of section.}
tofore or hereafter made or given. 3-4 Geo. V. c. 37, s. 47.

APPEALS.

48.—(1) An appeal shall lie from the Board to a Divisional Court upon a question of jurisdiction or upon any question of law, but such appeal shall not lie unless leave to appeal is obtained from the court within one month after the making of the order or decision sought to be appealed from or within such further time as the court, under the special circumstances of the case, shall allow after notice to the opposite party stating the grounds of appeal. ^{Appeal on questions of jurisdiction.}

(2) Upon such leave being obtained the Registrar shall set the appeal down for hearing at the next sittings; and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors by whom such parties were represented before the Board, and to the Secretary, notice in writing that the case has been so set down; and the appeal shall be heard by such court as speedily as practicable. ^{Security for costs.} ^{Notice of appeal.}

(3) On the hearing of any appeal the court may draw all such inferences as are not inconsistent with the facts expressly found by the Board and are necessary for determining the question of jurisdiction or law, as the case may be, and shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion. ^{Opinion of court.}

(4) The Board shall be entitled to be heard, by counsel or otherwise, upon the argument of any such appeal. ^{Board may be heard by counsel.}

(5) The Supreme Court shall have power to fix the costs and fees to be taxed, allowed and paid upon such appeals, and to make rules of practice respecting appeals under this section, and until such rules are made the rules and practice applicable to appeals from a Judge of the Supreme Court to a Divisional Court shall be applicable to appeals under this Act. ^{Rules of court as to cost, etc.}

(6) When the matter in controversy exceeds the sum or value of \$4,000 or relates to the duration of a privilege to operate a railway along a highway, or to the construction of an agreement between a railway company and a municipal corporation, or to any demand affecting the rights of the public or to any demand of a general or public nature affecting future rights, an appeal shall lie from the Divisional Court of the Appellate Division of the Supreme Court to His Majesty in His Privy Council, but no appeal shall lie to His Majesty in His Privy Council in any other case. ^{Appeals to Privy Council in certain cases.}

(7) Neither the Board nor any member of the Board shall in any case be liable to any costs by reason or in respect of any appeal or application under this section. ^{Members of Board not liable for costs.}

(8) Save as provided in this section and in section 47,

Decisions
of Board
to be final.

(a) Every decision or order of the Board shall be final;
and,

Not to be
questioned
by pro-
hibition, etc.

(b) No order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any court. 3-4 Geo. V. c. 37, s. 48.

Reference by
Lieutenant-
Governor in
Council
for report.

49. The Lieutenant-Governor in Council may at any time refer to the Board, for a report or other action, any question, matter or thing arising, or required to be done in respect of a railway, street railway or public utility, subject to the jurisdiction of the Board, under any general or special Act, and the Board shall without unnecessary delay comply with the Order in Council. 3-4 Geo. V. c. 37, s. 49.

Costs.

50.—(1) The costs of and incidental to any proceeding before the Board, except as herein otherwise provided, shall be in the discretion of the Board, and may be fixed in any case at a sum certain or may be taxed.

Taxation.

(2) The Board may order by whom and to whom any costs are to be paid, and by whom the same are to be taxed and allowed.

Scale.

(3) The Board may prescribe a scale under which such costs shall be taxed. 3-4 Geo. V. c. 37, s. 50.

Duty to
execute works
ordered by
Board.

51.—(1) When the Board, in the exercise of any power vested in it, by any order directs any structure, appliances, equipment, works, renewals, or repairs to be provided, constructed, reconstructed, altered, installed, operated, used or maintained, it may order by what company, municipal corporation or person interested or affected by such order, as the case may be, and when or within what time, and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision the same shall be provided, constructed, reconstructed, altered, installed, operated, used or maintained.

And to pay
expenses
of them.

(2) The Board may order by whom, in what proportion and when, the cost and expenses of providing, constructing, reconstructing, altering, installing and executing such structures, equipment, works, renewals, or repairs, or of the supervision, if any, or of the continued operation, use or maintenance of the same, or of otherwise complying with such order shall be paid. 3-4 Geo. V. c. 37, s. 51.

INQUIRIES.

Board may
order
inquiries.

52.—(1) The Board may appoint or direct any person to make an inquiry and report upon any application, complaint

or dispute before the Board, or upon any matter or thing over which the Board has jurisdiction.

(2) The Board may order by whom and in what proportion the costs and expenses incurred in making such inquiry and report shall be paid, and may fix the amount of such costs and expenses. 3-4 Geo. V. c. 37, s. 52.

53. The Board, inspecting engineer, or person appointed under this Act to make any inquiry or report may— Powers respecting inquiries.

- (a) enter upon and inspect any place, building, or works, being the property or under the control of any company, the entry or inspection of which appears to it or him requisite; Entry.
- (b) inspect any works, structure, rolling stock or property of the company; Inspection.
- (c) require the attendance of all such persons as it or he thinks fit to summon, and examine and require answers or returns to such inquiries as it or he thinks fit to make; Attendance of witnesses. Returns.
- (d) require the production of all books, papers, plans, specifications, drawings and documents, relating to the matter before it or him; Production of documents, etc.
- (e) administer oaths, Oaths.

and shall have the like power to summon witnesses and enforce their attendance, and compel them to give evidence and to produce books, papers or things which they are required to produce, as is vested in any court in civil cases. 3-4 Geo. V. c. 37, s. 53. Summoning witnesses and enforcing attendance.

54. Every person summoned to attend before the Board or before any inspecting engineer, or person appointed to make inquiry and report, shall, in the discretion of the Board, receive the like fees and allowances for so doing as if summoned to attend before the Supreme Court. 3-4 Geo. V. c. 37, s. 54. Witness fees.

ADDITIONAL POWERS OF BOARD.

55. The Board may require any company, person or municipal corporation, subject to its jurisdiction, to adopt such means and appliances and to take and use such precautions as the Board may deem necessary or expedient for the safety of life and property. 3-4 Geo. V. c. 37, s. 55. Telegraph and telephone wires, etc.

ENQUIRIES INTO FACTS FOR GOVERNMENT, ETC.

56. The Board shall, when required so to do by the Lieutenant-Governor in Council, the Assembly or any Committee thereof, make, or cause to be made under its supervision, an Board to enquire and report on certain

matters at
request of
Govern-
ment or
Legislature.

enquiry into any facts which the Lieutenant-Governor in Council, the Assembly or any such Committee may desire to ascertain before passing upon the propriety of any proposed change in the general railway law, or upon any proposed Bill relating to a municipal corporation or to a railway or street railway company, or to any corporation or person operating or proposing to operate a public utility, and upon the conclusion of such enquiry the Board shall report its opinion thereon. 3-4 Geo. V. c. 37, s. 56.

ANNUAL REPORT OF BOARD.

Annual
report.

57.—(1) The Board shall make an annual report, on or before the 31st day of January in each year, to the Lieutenant-Governor, which shall contain

Contents.

- (a) a record of its meetings and an abstract of its proceedings during the preceding calendar year;
- (b) a statement of the result of any examination or investigation conducted by it;
- (c) such statements, facts and explanations as will disclose the actual workings of the system of railway transportation in its bearing upon the business and prosperity of Ontario, and such suggestions as to the general railway policy of the Province, of the amendments of its laws, or the condition, affairs or conduct of any railway or street railway as may seem to it advisable;
- (d) such tables and abstracts of all the reports of all the railway and street railway companies as it may deem expedient;
- (e) a statement in detail of its disbursements;
- (f) such other matters as appear to the Board to be of public interest in connection with the persons, companies and railways, subject to this Act; and,
- (g) such matters as the Lieutenant-Governor in Council directs.

Laying
report before
Assembly.

(2) The Lieutenant-Governor shall lay the report before the Assembly forthwith if then in session, or if not then in session within fifteen days after the commencement of the next session. 3-4 Geo. V. c. 37, s. 57.

Superintend-
ing accounts
of railways
and public
utilities
operated by
municipalities.

58.—(1) The Board shall superintend the system of book-keeping and keeping accounts of the assets, liabilities, revenue and expenditure of all railways, street railways and public utilities which are operated by or under the control of a municipal corporation or a commission appointed by a municipal corporation, and may require from any such municipal

corporation or commission such returns and statements as to the Board may seem proper, and may extract from such returns and statements such information as, in the opinion of the Board, may be useful for publication, and may embody such portions of such returns and statements in the annual report of the Board as to it may seem proper.

(2) The Board may from time to time enquire and report ^{Enquiry and report as to rates charged by public utilities.} as to whether such railway, street railway, or public utility is operated in such a way that the rates charged in respect thereof are sufficient to pay the debenture debt and interest created in respect thereof, and the cost of operation and maintenance, or whether greater rates are charged than are sufficient for such purposes.

(3) This section shall not apply to a municipal corporation ^{Exception.} or commission as respects a public utility for the development or distribution of electrical power or energy. 3-4 Geo. V. c. 37, s. 58.

SECURITY OF PROCEEDINGS.

59. If any officer or servant of the Board, or any person ^{Publishing information without leave.} having access to or knowledge of any return made to the Board, or of any evidence taken by the Board in connection therewith, without the authority of the Board first obtained, publishes or makes known any information, having obtained the same or knowing the same to have been derived from such return or evidence, he shall incur a penalty not exceeding \$500 for such offence and shall also be liable to imprisonment for any term not exceeding six months. 3-4 Geo. V. c. 37, s. 59.

ARBITRATION BY THE BOARD IN CASES OF LABOUR DISPUTES.

60.—(1) A dispute between a railway, street railway or public utility company and its employees may be submitted ^{May arbitrate labour difficulties.} to the Board for its determination and settlement.

(2) The submission shall be in writing and shall contain a statement of the matters in dispute, and also an agreement ^{Submission to be in writing.} to abide by the determination of the Board and to continue in business or at work without a lockout or strike during the investigation.

(3) Upon such submission the Board shall investigate and determine the matters in dispute and shall render its decision ^{Duty of Board upon submission.} within ten days after the completion of the investigation.

(4) The proceedings shall, as nearly as may be, be the same as in the case of any other enquiry which the Board is ^{Procedure in such cases.} authorized to make, but the Board may regulate the proceedings and the manner of conducting them as to the Board may seem meet. 3-4 Geo. V. c. 37, s. 60.

MEDIATION IN CASE OF STRIKE OR LOCKOUT.

To mediate
in case of
strikes.

61.—(1) Whenever a strike or lockout of the employees of any railway, street railway, or public utility company occurs, or is threatened, the Board shall proceed as soon as practicable to the locality thereof and endeavour by mediation to effect an amicable settlement of the controversy.

Enquiry into
cause of
dispute and
suggesting
terms of
settlement.

(2) Wherever there exists any such strike or lockout by reason of which, in the opinion of the Board, the general public is likely to suffer injury or inconvenience with respect to food, fuel or light, power, the means of communication or transportation, or in any other respect, and the parties to such strike or lockout will not consent to submit the matters in controversy to the Board, the Board, after having first endeavoured to effect a settlement by conciliatory means and having failed, may proceed of its own motion to make an investigation of all facts bearing upon such strike or lock-out, and shall make public its findings with such recommendations to the parties as, in its judgment, will contribute to a fair and equitable settlement of their differences, and in the prosecution of such enquiry the Board shall have all the powers conferred upon it by section 53. 3-4 Geo. V. c. 37, s. 61.

FEES TO BE CHARGED AND COLLECTED BY THE BOARD.

Fees for
copies,
certificates,
etc.

62. —(1) The Board may charge and collect such fees, as to it may seem proper for all copies of documents, maps or plans, and all certificates as to the same.

Payment
over to
Province.

(2) All fees charged and collected by the Board shall be paid over quarterly, accompanied by a detailed statement thereof, to the Treasurer of Ontario. 3-4 Geo. V. c. 37, s. 62.

Fees on
orders of
Board to be
paid in
stamps.

63. There shall be paid in law stamps upon every order made by the Board such sum as it may direct, regard being had to the time occupied by the Board and its officers and the expense occasioned to the Province in the matter, and such law stamps shall be provided in the first instance by the applicant for such order, and such sum shall be a debt due by the applicant to His Majesty, and a summary order may be made for payment thereof by the Board, and the order may be made an order of the Supreme Court. 3-4 Geo. V. c. 37, s. 63.

CHAPTER 187.

An Act respecting the Public Construction and
Operation of Electric Railways.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Hydro Electric Rail- Short title.*
way Act. 3-4 Geo. V. c. 38, s. 1.

2. In this Act, Interpreta-
tion.
“Commission” shall mean The Hydro Electric Power “Com-
Commission of Ontario. mission.”

“Corporation” shall mean a municipal corporation, “Corpora-
other than the municipal corporation of a county. tion.”
3-4 Geo. V. c. 38, s. 2.

3. Whenever required by the Lieutenant Governor in Commission
Council so to do, the Commission may enquire into, examine, to enquire
investigate and report upon and report.

(a) the cost of constructing and operating an electric railway in any locality in which electrical power or energy may be supplied by the Commission under *The Power Commission Act*;

Rev. Stat. c. 39.

(b) the municipalities, the inhabitants of which will be served by such railway;

(c) the population of each of such municipalities as shown by the last enumeration thereof by the assessors;

(d) an estimate of the probable revenue from the railway;

(e) the practicability of the undertaking and its economic value to the locality to be served by it.
3-4 Geo. V. c. 38, s. 3.

4.—(1) A corporation or two or more corporations may, if authorized by the Lieutenant Governor in Council so to do, enter into an agreement with the Commission for the con- Agreement
struction, equipment and operation of an electric railway to with cor-
be operated by electrical power or energy supplied by the porations
Commission. for con-
struction and operation.

Matters
which may
be provided
for in
agreement.

(2) The agreement may provide for

- (a) the location of the line of the railway;
- (b) the character of the equipment and service to be furnished and the maximum tolls or fares to be chargeable thereon;
- (c) the proportion in which the cost of construction, equipment, maintenance and operation of the railway shall be borne by each of the corporations interested;
- (d) the issuing of debentures of the corporation, or of each of the corporations, for raising the amount of such cost;
- (e) the proportion of the revenue from such railway to be paid annually by the Commission to each corporation after deducting the charges herein-after mentioned;
- (f) the construction of the railway upon any right of way acquired by the Commission for the transmission of electrical power or energy under *The Power Commission Act*, and the amount chargeable to the railway by way of rental or otherwise for the use of such right of way.

Rev. Stat. c. 89.

Agreement
for con-
struction
and opera-
tion by
corporation.

(3) Instead of providing for the construction and operation of the railway by the Commission, the agreement may provide for its construction by the Commission and for its operation by the corporation or corporations, or for its construction and operation by the corporation or corporations, and in either case for the supply by the Commission of the electrical power requisite for the operation of the railway on such terms and conditions as may be agreed on between the corporation or corporations and the Commission.

Construc-
tion on
right of
way of
Commission.

(4) Where the railway is to be constructed and operated by the corporation or corporations, the Commission may agree with them to permit the railway to be constructed upon the right of way or other lands of the Commission on such terms and conditions as may be agreed on.

Approval of
Lieutenant
Governor
in Council.

(5) The agreement shall not come into effect until it has been sanctioned by the Lieutenant Governor in Council and has been approved by by-law passed with the assent of the municipal electors of each municipality. 3-4 Geo. V. c. 38, s. 4.

5.—(1) The council of every corporation entering into an agreement with the Commission under this Act shall annually raise and pay over to the Commission such sums as may be required by it in the construction, equipment, maintenance and operation of the railway, including the costs of the supply of electrical power or energy to the extent and in the proportions fixed by the agreement, and, for that purpose, may issue debentures of the corporation payable in not more than forty years from the date of the issue thereof.

Annual payments by municipalities to defray cost.

(2) It shall not be necessary to obtain the assent of the electors to the passing of any by-law for incurring a debt under this section. 3-4 Geo. V. c. 38, s. 5.

Assent of electors not necessary.

6. Where the agreement provides for the construction and operation, or for the operation of the railway by a corporation or by two or more corporations, it shall also provide for the management of the railway and its operation by a public utilities commission, to be approved by the Lieutenant Governor in Council, and it shall provide as to the mode of appointing the members of such commission and for the proportions in which each corporation shall contribute to the cost of its construction, maintenance and operation, and for the proportion in which each of them shall share in the income, revenue and profits derived from the operation of the railway, and such corporation or corporations or commission shall have the right to construct and operate the railway notwithstanding that it does not lie wholly within one or more of the municipalities, the corporations of which may have entered into the agreement. 3-4 Geo. V. c. 38, s. 6.

Construction and operation by a public utilities commission.

7. A public utilities commission appointed under the provisions of the next preceding section shall have all the powers and perform all the duties of a public utilities commission appointed under *The Public Utilities Act*. 3-4 Geo. V. c. 38, s. 7.

Powers and duties of public utilities commission. Rev. Stat. c. 204.

8. Subject to the provisions of section 5, where an agreement has been entered into under section 4, the Commission may construct, complete, equip, maintain, and operate the railway therein provided for, and for that purpose shall have and may exercise the powers of a company incorporated by special Act for the construction of such railway under the provisions of *The Ontario Railway Act*, so far as the same are applicable. 3-4 Geo. V. c. 38, s. 8.

Powers of Commission as to construction and operation.

Rev. Stat. c. 185.

9. Where land is required for any of the purposes for which land may be acquired or expropriated under *The Ontario Railway Act* the Commission, in respect thereof, shall have the powers and shall proceed in the manner provided by *The Ontario Public Works Act*, where the Minister of Public Works takes land or property for the use of Ontario, and the provisions of the said Act shall, *mutatis mutandis*, apply. 3-4 Geo. V. c. 38, s. 9.

Taking lands. Rev. Stat. c. 185.

Rev. Stat. c. 35

Application
of revenue
by Com-
mission.

10. The Commission shall apply the revenue derived from the operation of the railway to the payment of working expenses of the railway, and after payment of the same shall annually pay over the balance, if any, to the corporations, parties to the agreement in the proportions fixed thereby. 3-4 Geo. V. c. 38, s. 10.

Application
of profits by
corporation.

11. All sums received by the corporation or corporations shall be applied in the first place in the payment of the principal and interest of any debt incurred under the authority of this Act in the manner prescribed by the Commission. 3-4 Geo. V. c. 38, s. 11.

Certain
sections of
Railway
Act not to
apply.

12. Sections 68 to 97 of *The Ontario Railway Act* shall not apply to the Commission or to any railway constructed or operated by it. 3-4 Geo. V. c. 38, s. 12.

Application
of ss. 8-12.

13. Sections 8 to 12 shall apply only where the agreement provides for the construction of the railway by the Commission. 3-4 Geo. V. c. 38, s. 13.

Actions
against
Commission.

14. No action or prosecution shall be brought against the Commission or any member thereof or any of its officers under *The Ontario Railway Act* without the consent of the Attorney General of Ontario. 3-4 Geo. V. c. 38, s. 14.

No liability
for errors
in esti-
mates.

15. The Province shall not, nor shall the Commission, nor any member thereof, incur any liability by reason of any error or omission in any estimates, plans or specifications prepared or furnished by the Commission. 3-4 Geo. V. c. 38, s. 15.

Works
vested in
Commission.

16. Every railway and the works, property and effects held and used in connection therewith, constructed, acquired, operated and maintained by the Commission, under this Act, shall be vested in the Commission in trust for the corporations parties to the agreement for the construction and operation of the railway. 3-4 Geo. V. c. 38, s. 15.

CHAPTER 188.

An Act respecting Telephone Systems.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Telephone Act*. Short title.
2 Geo. V. c. 38, s. 1.

2. In this Act,

Interpreta-
tion.

- (a) "Board" shall mean Ontario Railway and Municipal Board;
- (b) "Company" shall include a Company, Municipal Corporation, Association, partnership, individual or aggregation of individuals owning, controlling or operating or who may propose to own, control or operate a telephone system or line within Ontario;
- (c) "Initiating municipality" shall mean a municipal corporation which has established a telephone system under any former Act or which may establish a telephone system under this Act;
- (d) "Maintenance" shall include not only the cost of repair and maintenance, but also the cost of switchboard operation and the cost of labour and superintendence and management of the system, including the extensions;
- (e) "Special Act" shall mean and include any Act of this Legislature authorizing the construction of a telephone system or line, and with which this Act is incorporated, and letters patent incorporating a telephone company, or supplementary letters patent relating to such a company issued under the authority of any Act of this Legislature. 2 Geo. V. c. 38, s. 2 (a-e).
- (f) "Subscriber" shall mean and include every person who signs a petition to the council of a municipality praying for the establishment of a local telephone system, which is afterwards established pursuant to such petition, or who applies to connect his premises with a telephone system established under this or any former Act

and every person whose premises are so connected. 2 Geo. V. c. 38, s. 2 (f); 3-4 Geo. V. c. 40, s. 1.

"System."

(g) "System" shall mean a telephone system established under this or any former Act;

"Cost of establishing, etc., system."

(h) "The cost of establishing and maintaining any system or extension thereof," shall mean not only the cost of constructing, erecting and installing the original system, but also the cost of such improvement or strengthening of it, or any extension thereof, then in existence, as may be necessary or expedient by additional switchboard equipment, poles, cables, wires, cross-arms, insulators and other appliances, and such work or labour as may be deemed necessary or expedient by the Board or the initiating municipality to enable it to give the subscribers efficient telephone service;

"Tolls, Toll."

(i) "Tolls" and "Toll" shall include any toll, rate, rental, or charge for the transmission of telephone messages or for the use of telephone instruments, or circuits, or for the supply of telephone service. 2 Geo. V. c. 38, s. 2 (g-i).

PART I.

GENERAL POWERS OF MUNICIPAL CORPORATIONS.

Power to carry on telephone business.

3.—(1) The corporation of every municipality may carry on the telephone business, and for the purposes of such business may construct, maintain and operate in, over, under, upon or across the highways, lanes, parks, squares and other public ways, passages and places in the municipality, or in, over, under, upon or across the land of any person therein an underground or overhead or partly underground and partly overhead telephone system, and do all things necessary or convenient for that purpose.

Power to acquire or expropriate telephone systems.

(2) The corporation may also, for the purpose of establishing and carrying on such business, acquire by purchase or lease or may expropriate any telephone system in the municipality established under any former Act, or under Part II., and may improve and extend such system and maintain and operate it and any extension of it, and may for the purposes mentioned in this subsection exercise the like powers as are conferred by subsection 1. 2 Geo. V. c. 38, s. 3.

General powers as to carrying on business.

4. The council of the corporation may pass by-laws and make rules and regulations for carrying on the business, including the fixing of the terms and conditions upon which telephone services will be provided for persons desiring the

same, the amount to be paid for such services, and for any work or appliances that may be requisite for making connections with the buildings of such persons and the times when and the places where the charges therefor shall be payable. 2 Geo. V. c. 38, s. 4.

5. Such charges may be collected in like manner as taxes Collection of charges. are collected and in default of payment the corporation may enter into or upon the building or premises in which any works or appliances for providing the service have been Removal of appliances. placed for the purpose of removing and may remove the same, doing no unnecessary damage to the buildings or premises. 2 Geo. V. c. 38, s. 5.

6. Where any of the powers of expropriation conferred by this Part are exercised by a corporation the provisions of How powers of expropriation to be exercised. *The Municipal Act* as to the expropriation of land under that Act and as to all matters consequent upon the passing of an expropriating by-law shall apply. 2 Geo. V. c. 38, s. 6. Rev. Stat. c. 192.

7. No action shall be brought against the corporation or any of its officers, agents or servants for anything done or omitted in the carrying on of such business or in the exercise of the powers under this Act after the lapse of six months after the time when the cause of action arose. 2 Geo. V. c. 38, s. 7. Limitation of action against corporation.

8.—(1) The council of every municipality may, in the case of a county, village or township, with the approval of the Board, and in the case of any other municipality, with the assent of the municipal electors, pass by-laws for granting to a telephone company, upon such terms and conditions as may be deemed expedient the right to use any of the highways, squares, or lanes in the municipality for placing in, upon, over or under the same poles, cables, ducts and wires for the purpose of its business. 2 Geo. V. c. 38, s. 8 (1); 3-4 Geo. V. c. 40, s. 1. Granting a company right to use highways.

(2) In the case of a city, town or village the right may be an exclusive right limited to a period not exceeding five years at one time. Rights in urban municipalities.

(3) A by-law passed under subsection 2 shall not prevent a council from granting to any person permission to use any of the highways, squares or lanes for the purpose of a private telephone line for the use of such person, his servants, clerks, or agents, or persons communicating with them. 2 Geo. V. c. 38, s. 8 (2-3). Use of street for private telephone line.

(4) The council of every city may, without the consent of the electors, pass by-laws granting from time to time to any telephone company upon such terms and conditions as may be thought expedient the exclusive right within the Grant of exclusive right to use streets.

municipality for a period not exceeding one year at any one time to use the streets and lanes in the municipality for the purpose of placing in, upon over or under the same, poles, cables, ducts and wires for the purpose of carrying on a telephone business and may on behalf of the municipal corporation enter into agreements with any such company for a period not exceeding one year not to give to any other company or person for such period any license or permission to use such streets or lanes for any such purpose; but no such by-law shall be passed nor shall any such agreement be entered into without the assent of two-thirds of the members of the council of the municipality being present and voting therefor and further no by-law providing for the renewal of such agreement for a further period of one year shall be passed without the assent of two-thirds of the members of the council of the municipality, in the year succeeding that in which the original by-law or by-law renewing the original agreement was passed, being present and voting therefor.

Terms of user.

(5) Subject to the provisions of the preceding subsections of this section whenever the council of a municipality and a company are unable to agree as to the terms and conditions upon which the right to use the highways, squares, or lanes in the municipality shall be granted, the council and the company may, by mutual consent, refer the matters in dispute to the Board, in which event the Board, after hearing the evidence of all persons interested, may prescribe such terms and conditions, and thereupon such terms and conditions shall be binding upon the corporation of the municipality and the company. 3-4 Geo. V. c. 40, s. 2.

PART II.

LOCAL MUNICIPAL TELEPHONE SYSTEMS.

Petition
for system.

9. A petition may be presented to the council of any local municipality praying for the establishment of a local telephone system by not less than 10 resident assessed land-owners. 2 Geo. V. c. 38, s. 9.

Particulars
to be stated
in petition.

10. The petitioners in their original or in any supplementary petition shall set forth such particulars as the council may require, including a statement showing the location of the proposed system and the manner in which it is proposed that it shall be constructed and maintained, and after having been affixed thereto no name shall be removed from the petition unless by consent of the Board. 2 Geo. V. c. 38, s. 10; 3-4 Geo. V. c. 40, s. 3.

By-law for
establishing
system.

11. The council may by by-law provide, at the expense of the subscribers and subject to such conditions as may be set

forth in the by-law, for the establishment and maintenance of the system and for the extension thereof from time to time upon the application of such persons as may desire to become subscribers. 2 Geo. V. c. 38, s. 11.

12. Every system established or extended under this Part or under any former Act and all works and property acquired, erected or used in connection therewith shall be vested in the initiating municipality in trust for the benefit of the subscribers, and the initiating municipality shall be responsible for all the obligations of the system in connection with its establishment, extension and maintenance. 2 Geo. V. c. 38, s. 12.

System to be vested in corporation in trust for subscribers.

13. The council of the initiating municipality may, with the consent of the council of any adjoining municipality, or on the petition of ten resident assessed landowners of such adjoining municipality and with the approval of the Board, may from time to time extend the system into such adjoining municipality. 2 Geo. V. c. 38, s. 13; 3-4 Geo. V. c. 40, s. 4.

Extension to adjoining municipality.

14.—(1) The cost of establishing and maintaining any system or any extension thereof under this Part or under any former Act shall be defrayed by the subscribers thereto in such proportion as they may agree upon among themselves, or, in default of agreement, or to the extent of any default in payment of the amount agreed upon, shall be defrayed by special rate to be levied upon the subscribers, or such of them as may be in default, and any such rate may be collected by action as an ordinary debt against the persons liable therefor or may be added to the collector's roll as taxes due from them, and may be collected in the same manner as other taxes. 2 Geo. V. c. 38, s. 14.

Cost of construction and maintenance.

Special rate upon subscribers.

(2) The initiating municipality shall pay to its clerk, treasurer and collector, and to the clerk, treasurer and collector of the other municipalities into which its system extends, a reasonable remuneration for services performed by them or any of them under this Act.

Remuneration of clerk, treasurer, collector, etc.

(3) Such remuneration shall be fixed by agreement between the official performing the services and the council of the municipality or the commissioners, as the case may be, and, failing agreement, by the Board, on an application to it for that purpose. 3-4 Geo. V. c. 40, s. 5.

15. All works done at any time under this Part shall be deemed to be works done by the initiating municipality, and in carrying out the same, and in the construction, management, maintenance, control and extension of any system established under this Part or under any former Act the initiating municipality shall have and may exercise all or

Powers of corporation installing system.

any of the powers conferred upon municipal corporations by Part I. 2 Geo. V. c. 38, s. 15.

Connection with other systems individual or municipal.

16. The initiating municipality may enter into agreements for the connection of the system with any other telephone system owned or controlled by any individual or any company or by a municipal corporation, or may, with the consent of the subscribers, acquire by purchase or lease or may expropriate any existing telephone system operated in the municipality or any portion of the plant and appliances thereof, and, in case of expropriation, making such compensation therefor as may be agreed upon or in case of failure to agree as may be determined by arbitration under *The Municipal Act*. 2 Geo. V. c. 38, s. 16; 3-4 Geo. V. c. 40, s. 6.

Rev. Stat. c. 192.

Issuing debentures for cost of work

17.—(1) Where the subscribers or a majority of them in the petition for the establishment or extension of the system pray that the payment of the cost of the work may be extended over a period not exceeding ten years, and that debentures of the initiating municipality may be issued to pay the cost of the work, the council of the initiating municipality, in the by-law providing for such establishment or extension or in a subsequent by-law passed as provided by subsection 8, may provide for the issue of debentures payable within ten years from the date of the issue thereof, and that the proceeds of such debentures shall be applied in payment of the cost of establishing or extending the system, and for levying a special rate upon the property of the subscribers sufficient to discharge any debt so incurred in equal annual instalments of principal and interest.

Serving persons not original subscribers.

(2) The council of the initiating municipality or the subscribers in general meeting assembled, as provided by section 21, may by by-law prescribe the terms on which persons who were not original subscribers may become subscribers and connect their premises with the system.

Issue of debentures for cost of extensions.

(3) The council may also by by-law authorize the issue of debentures, whether original or additional, to provide for the cost of any extension of the system, such debentures to be payable by annual instalments within ten years from the date of issue, and shall by any such by-law make provision for levying on the respective properties of subscribers with which connection is to be made an annual sum sufficient to discharge the debentures and the interest thereon as the same fall due.

Assent of electors not required.

(4) The debentures shall be issued on the credit of the initiating municipality and it shall not be necessary that the by-law be submitted for the assent of the electors.

Certain provisions retroactive.

(5) Subsections 2, 3 and 4 shall be deemed to be declaratory of the law on and from the 14th day of April, 1908.

(6) Where the system extends into another municipality the clerk of the initiating municipality shall transmit a certified copy of the by-law to the clerk of any municipality in which the premises of a subscriber are situate, and the amount payable by each subscriber in each year shall be added to the taxes payable by him in that year upon the collector's roll, and shall be collected in the same manner as other taxes, and when collected shall be paid over to the Treasurer of the initiating municipality.

(7) If the amount collected from the subscribers is insufficient to meet any annual instalment of principal and interest, and the cost of maintenance, the deficiency shall be made up out of the general funds of the initiating municipality and shall constitute a debt due from the subscribers to the initiating municipality and be collected in the same manner as any other liability incurred on behalf of the subscribers under this Act.

(8) The initiating municipality may agree with any bank, person or body corporate for temporary advances and loans for meeting the cost of the work until the completion thereof, and may then pass the necessary by-law authorizing the issue of debentures, out of the proceeds of which the amount of the temporary loans and advances shall be paid as at first charge, but the by-law for the issue of debentures shall be passed not later than two years after the initiating municipality has enacted the by-law for the establishment or extension of the system as the case may be, and the debentures shall be issued within twelve months after the passing of the by-law. 2 Geo. V. c. 38, s. 17 (1-8).

(9) The initiating municipality before proceeding to establish a system or construct any extension thereof which may require the issue of additional debentures shall furnish to the Board a certified copy of the by-law providing for the establishment of such system or for the construction of such extension, together with such plans and specifications, particulars of the cost of the works, the amounts to be levied against the subscribers for the repayment of principal and interest, or the instalments thereof, and other information as the Board may require, and no debt shall be incurred for the construction of the system or any extension thereof or the purchase of material to be used in such construction until the Board shall have approved such by-law, plans and specifications. 2 Geo. V. c. 38, s. 17 (9); 3-4 Geo. V. c. 40, s. 7.

(10) If in the establishment of a telephone system or any extension thereof it is proposed to erect poles, cables, ducts or wires upon or along a highway, upon or along which are located the poles, cables, ducts or wires of a telephone company, which is within the Legislative jurisdiction of Ontario the initiating municipality before proceeding to erect such

poles, cables, ducts or wires shall fix a price to offer and shall offer to purchase from the company at such price its system or such part thereof as it is proposed to duplicate, and if the company does not accept the price so offered within a period of one month from the date of the offer the price to be offered shall be fixed by the Board.

Right of municipality on refusal of company to accept price fixed.

(11) If the company does not within one month from the decision of the Board accept the offer of the initiating municipality to purchase at the price fixed by the Board the initiating municipality may proceed to erect such poles, cables, ducts or wires upon or along such highways, or may appropriate such part of the system of the company as may be located within the limits of the initiating municipality or within the limits of any adjoining municipality into which the initiating municipality has authority to extend its system or lines making such compensation therefor as may be agreed upon or in case of failure to agree as may be determined by arbitration under *The Municipal Act*.

Rev. Stat. c. 192.

Application of sections 9-11.

(12) The three next preceding subsections shall apply to a municipal corporation proposing to establish a telephone system under the provisions of section 3. 3-4 Geo. V. c. 40, s. 8.

Equalizing charges against subscribers.

18. If the share of the cost to each subscriber of the establishment of any extension is less than the share of the cost to each subscriber of the establishment of the original system, the initiating municipality may charge each subscriber for such extension the same annual amount, and for the like term of years, as was charged to each subscriber for the establishment of the original system, and the difference between such last mentioned amount and the amount of the cost of the establishment of the extension shall be applied by the initiating municipality towards the cost of the maintenance of the original system, and any extension thereof, and each subscriber for such extension shall pay such annual amount to the initiating municipality during such term of years. 2 Geo. V. c. 38, s. 18.

Application of difference between changes.

System heretofore established.

19. Where a municipal corporation, before the 14th day of April, 1908, incurred a debt in establishing or extending a system established under the Act passed in the 6th year of His late Majesty's reign, Chaptered 41, the council of the initiating municipality may by by-law provide for the issue of debentures for the payment of such debt, and any agreement heretofore entered into by the subscribers to such system to pay such debt shall be deemed sufficient authority for the passing of the by-law if the by-law in all other respects complies with the provisions of section 17. 2 Geo. V. c. 38, s. 19.

Right to issue debentures.

20. The initiating municipality may agree with any person for the establishment of the exchange or switchboard of a telephone system established under this Part in any suitable building owned or occupied by such person, and for the operation by him of such exchange or switchboard, and may embody the terms of such agreement in the by-law for establishing or extending the system. 2 Geo. V. c. 38, s. 20.

Establishment of exchange or switchboard.

21.—(1) Upon a petition of the majority of the subscribers the Council shall place the system under the supervision of a Board of three commissioners who shall be responsible for the efficient construction, maintenance and operation of all plant and equipment comprising the system and all extensions thereof.

Board of commissioners.

(2) The Commissioners shall be elected at a general meeting of the subscribers called for the purpose in such manner as the Council directs.

Election of Commissioners.

(3) The subscribers in general meeting assembled may make by-laws not contrary to law or to this Act, to regulate—

By-laws of subscribers.

(a) The time and place at which the meetings of subscribers shall be held, the calling of meetings, and the procedure at such meetings;

(b) The term of service, manner of election, duties and remuneration of the commissioners;

(c) The management of the system;

(4) The members of the council shall have the right to attend and vote at all meetings of the subscribers.

Right of council to vote.

(5) If the subscribers fail to petition the council, as provided in subsection 1, the supervision of the system shall remain in the control of the council which shall have authority to employ such persons as it may deem necessary for the efficient construction, maintenance and operation of the system, and to make all necessary expenditures in connection therewith.

Council to control where no Commission.

(6) Nothing in this section shall affect the rights of the initiating municipality in regard to the levying or collecting of any money which may from time to time be due to the initiating municipality from the subscribers for repayment of principal and interest or the cost of operation and maintenance as provided in this Act. 2 Geo. V. c. 38, s. 21.

Saving as to collection of rates by initiating municipality.

(7) For the purposes of this section "subscribers" shall mean and include only assessed landowners who are resident in the initiating municipality or in an adjoining municipality into which the initiating municipality has the right to extend its system, and whose premises are connected with the telephone system of the initiating municipality or who may have applied to have their premises so connected. 3-4 Geo. V. c. 40, s. 9.

Subscribers to include resident land owners, etc.

Superin-
tendence of
works by
Board.

22. The Board shall have authority to superintend the carrying out of this Part, and advise any municipal corporation or resident assessed landowners in the establishment or operation of any works authorized by this Act and the proceedings necessary thereto. 2 Geo. V. c. 38, s. 22.

PART III.

REGULATION OF TELEPHONE COMPANIES AND SYSTEMS.

Powers of
Board.

23. The Board shall have jurisdiction to enquire into, hear and determine any application by or on behalf of any person interested,

Rev. Stat.
c. 185.

- (a) Complaining that any Company has failed to do any act, matter or thing required by *The Ontario Railway Act*, this Act, any general or special Act, or by any regulation, order or direction made thereunder by the Lieutenant-Governor in Council, the Board, or any other authority, to be done by the company, or that any company has done or is doing anything contrary to or in violation of such Acts or any of them or any such regulation, order or direction;
- (b) Complaining that any company is charging tolls in excess of those approved by the Board;
- (c) Requesting the Board to make any order, or give any direction, sanction or approval which by law it is authorized to make or give. 2 Geo. V. c. 38, s. 23.

Power of
Board to
compel per-
formance
of duties.

24. The Board may order or require any company to do forthwith or within or at any specified time, and in any manner prescribed by the Board, so far as it is not inconsistent with the Acts hereinbefore mentioned, or any of them, or this Act or the Special Act, anything which such company is or may be required or authorized to do thereunder, and may forbid the doing or continuing of any thing which is contrary thereto. 2 Geo. V. c. 38, s. 24.

General
powers of
Board.

25. For the purposes of this Act the Board shall have full jurisdiction to hear and determine all matters of law or of fact. 2 Geo. V. c. 38, s. 25.

Standard
conditions
and speci-
fications for
construction,
etc.

26.—(1) The Board may prescribe standard conditions and specifications for the construction and equipment of all telephone systems, and may make such orders for the maintenance thereof as the Board shall from time to time determine to be necessary or desirable, but such standard conditions or specifications shall not apply to the existing plant or equipment of a telephone system in course of construction,

or operated by any company prior to the 30th day of June, 1911, but only to the renewal or replacement thereof whenever such renewal or replacement may, in the opinion of the Board, become necessary as a result of depreciation or obsolescence.

(2) In prescribing such conditions and specifications the Board shall take into consideration only such standards as in general practice may have been found necessary for the protection of life and property and for the provision of an efficient service to the public without regard to any particular type of equipment or apparatus.

(3) The Board, whenever in its judgment it appears that such a procedure is necessary or desirable in the public interest, may render to any company requesting the same such advisory, supervisory, or other assistance respecting the construction, management and operation of telephone systems as the Board may deem advisable, and may fix the terms and conditions under which any such assistance shall be given. 2 Geo. V. c. 38, s. 26 (1-3).

(4) The Board may, in its discretion, prescribe the forms of any and all accounts, records and memoranda to be kept by companies subject to the provisions of this Act. 3-4 Geo. V. c. 40, s. 11.

(5) The Board, whenever in its judgment it appears that it is desirable or necessary for the purpose of carrying into effect any of the provisions of this Act, may appoint or direct any person to examine and report upon the construction, operation or management of any telephone system, and for that purpose such person shall have authority at all reasonable hours to enter any building, office, or other premises belonging to or connected with any such system and to examine and check all books, accounts, tariffs, rates, balance sheets and other papers, records and documents relating to any such system, and to examine the switchboards, instruments, toll stations and all other property of whatsoever nature which belongs to or forms a part of such system and the Board may make such orders in regards to the construction, reconstruction, operation or maintenance of any telephone system which it may deem desirable or necessary in the public interest. 2 Geo. V. c. 38, s. 26 (4); 3-4 Geo. V. c. 40, s. 10.

(6) Whenever the poles and wires of two or more telephone systems or lines are erected, or are proposed to be erected, upon or along the same highway and the pole leads of the systems or lines are or are proposed to be located parallel with each other the Board, whenever in its judgment it appears to be necessary or desirable and practicable, may for the purpose of avoiding the unnecessary duplication of pole leads upon or along the same portion of any highway.

make such orders as it may deem expedient for the joint occupation by the wires or cables of two or more companies of the same lead of poles. 2 Geo. V. c. 38, s. 26 (5).

Regulations.

(7) The Board may approve of regulations made by any company for the purpose of preventing wilful interference with or interruption of conversations or messages over the lines of any telephone system, and any person offending against any of such regulations shall incur a penalty not exceeding \$25, recoverable under *The Ontario Summary*

Rev. Stat. c. 90. *Convictions Act*. 3-4 Geo. V. c. 40, s. 11.

Furnishing
reports, etc.

27. Every company operating a telephone system shall, on or before the first day of January in each year, or at such other times as the Board may require, furnish to the Board, in such form as it shall prescribe, such statements, reports and returns respecting the cost, receipts, expenditure, operation, management and equipment of such system as the Board may deem desirable or necessary, and any company refusing or neglecting to furnish such statements, reports and returns when required by the Board shall incur a penalty not exceeding \$25 for each such act of refusal or neglect, and the same shall be recoverable under *The Ontario Summary*

Penalty

Rev. Stat. c. 90. *Convictions Act*. 2 Geo. V. c. 38, s. 27.

Interchange
of service.

28. Notwithstanding anything in any Act contained, if in the opinion of the Board it becomes necessary or desirable for the purpose of carrying into effect any order of the Board made in accordance with the provisions of sections 33 and 36 for any company to erect poles, cables, ducts or wires upon any road or highway of a town, village or township municipality, such company shall have the right to erect such poles, cables, ducts and wires along such road or highway upon such terms and conditions as may be agreed upon between the Council of the town, village or township municipality and the company, and if the Council and the company are unable to agree then upon such terms and conditions as shall be prescribed by the Board. 2 Geo. V. c. 38, s. 28; 3-4 Geo. V. c. 40, s. 12.

Terms.

Prohibition
of sales or
transfers of
systems to
certain
companies
without
consent of
Lieutenant-
Governor
in Council.

29. Notwithstanding anything in any Act contained no company owning a telephone system or a controlling interest therein shall sell or transfer such system or controlling interest to, or amalgamate with, or enter into any agreement or arrangement which shall, in effect, transfer the ownership or control of such system or controlling interest to any company which has been declared to be a work for the general advantage of Canada, or which is not within the Legislative jurisdiction of Ontario, until the Lieutenant-Governor in Council has approved such sale, transfer, amalgamation, agreement or arrangement. 2 Geo. V. c. 38, s. 29.

30.—(1) The Board may make orders and regulations ^{Orders and regulations of Board.} with respect to anything which by any of the Acts hereinbefore mentioned, or by this Act or the Special Act, is sanctioned or required to be done or is prohibited, and generally for carrying such Acts into effect.

(2) The Board may by regulation prescribe penalties when ^{Prescribing penalties.} not prescribed by any of such Acts to which every company offending against any regulation made under this section shall be liable, but no such penalty shall exceed \$100.

(3) The imposition of any such penalty shall not affect any ^{Liability not affected.} other liability which the company may have incurred. 2 Geo. V. c. 38, s. 30.

31.—(1) Notwithstanding anything in any Act heretofore ^{Tolls.} passed by this Legislature all tolls to be charged by any company shall be subject to the approval of the Board.

(2) Every company shall file with the Board tariffs of tolls ^{Duty to file tariffs.} in such form, size, and style, and give any such information, particulars and details as the Board from time to time by general regulation or by regulation applicable to the particular case may prescribe, and no company shall charge any toll in respect of which there is default in such filing or which is disallowed by the Board. 2 Geo. V. c. 38, s. 31.

32. The Board may, by regulation or otherwise, deter- ^{Publication of tolls.} mine and prescribe the manner and form in which any tariff of tolls shall be published or kept open for public inspection. 2 Geo. V. c. 38, s. 32.

33.—(1) Subject to the approval of the Board every com- ^{Agreements for connections, joint operation, etc.} pany may enter into any agreement with any other company for the purpose of providing for connection, inter-communication, joint operation, reciprocal use, or transmission of business as between the respective systems controlled, owned or operated by such companies, and make such arrangements as shall be deemed advisable for the proper apportionment of expenditures and commissions, the division of receipts and profits, or such other adjustments as may be necessary under any such agreement.

(2) Wherever the telephone systems or lines of two or ^{Power of Board to order connections and construction of necessary works.} more companies are situate in such proximity to one another as in the opinion of the Board to make it expedient in the public interest that they should be connected in order that there may be intercommunication between, or joint operation or reciprocal use of them, or that such systems or lines may be used jointly by such companies for the transmission of messages by means of or over such systems or lines, the Board, if either of such companies refuses to enter into an agreement with the other, under the authority of subsection 1, shall order that such connection be made, and shall deter-

mine and direct by whom, and in what manner any line or works necessary for the purpose of making such connection shall be constructed and maintained, and how the expenses incurred in constructing and maintaining them shall be borne, and shall direct that there shall be such intercommunication between, and joint operation and reciprocal use of, and such transmission of messages over such systems or lines, including any such connecting line or works upon such terms and conditions as the Board may prescribe, and it shall be the duty of such companies to do all things necessary for the purpose of carrying into effect every such order or direction.

Determination to be question of fact.

(3) The determination of the Board in any such matter shall be deemed to be a determination of a question of fact.

Order of Board final.

(4) No order or direction of the Board made or given in the exercise of the powers conferred by subsection 2 shall be subject to appeal or be open to review except by the Board.

Application of section. 8 Edw. VII. c. 49.

(5) This section shall apply to a telephone system or lines established under *The Local Municipal Telephone Act, 1908*, or under the Act repealed by that Act, or any Act repealed by this Act, and the council of the municipality by which such telephone system or lines were established shall have, for the purpose of constructing any connecting line or works which the Board has directed to be constructed by it the like powers as are conferred upon the council of an initiating municipality by section 17, and such powers may be exercised without a petition from the subscribers. 2 Geo. V. c. 38, s. 33.

Agreements to be approved of by Board.

34. Every agreement or arrangement between any company, and any other company having authority to construct or operate a telephone system or line, whether such authority is derived from this Legislature or otherwise, for the regulation and interchange of telephone messages or service passing to and from their respective systems and lines, or for the division or apportionment of tolls, or generally in relation to the management, working or operation of their respective systems, or of lines operated in connection with them or either of them, shall be subject to the approval of the Board, and shall be submitted to and approved by the Board before such agreement or arrangement shall have any force or effect. 2 Geo. V. c. 38, s. 34.

Agreements restricting competition, etc.

35. No company shall enter into any agreement or arrangement with any other company having authority to construct or operate a telephone system or line, whether such authority is derived from this Legislature or otherwise, which in the opinion of the Board has or may have the effect of increasing the cost of telephone service to the public or of restricting competition in the supply of such service until

such agreement or arrangement has been submitted to and approved of by the Board as just and reasonable. 2 Geo. V. c. 38, s. 35.

36. Notwithstanding anything in any Act contained, whenever any person makes application to any company for telephone service such company shall furnish such telephone service upon such terms and conditions as may be directed by the Board. 2 Geo. V. c. 38, s. 36.

37. The provisions of *The Ontario Railway and Municipal Board Act*, with respect to the jurisdiction and powers of the Board, and as to practice and procedure, shall apply *mutatis mutandis* to the exercise of the jurisdiction conferred on the Board by this Act, and the decision of the Board on any question of fact shall be final. 2 Geo. V. c. 38, s. 37.

PART IV.

INCORPORATION AS COMPANIES.

38.—(1) Whenever an association, partnership or aggregation of individuals owning or operating a telephone system or line, by a vote of not less than three-fourths of its members, decide to become incorporated under *The Ontario Companies Act* they may do so, and the proposed company shall be entitled and be bound to purchase the share or interest in such telephone system or line of any dissentient member, partner or individual, and if the company and such dissentient member, partner or individual are unable to agree as to the value of such share or interest the same shall be determined by the Board.

(2) In computing the value of any such share or interest there shall be included, in addition to any sum contributed for the purposes of the association, partnership or aggregation of individuals, the value of any poles, cables, ducts, wires and other equipment, including the cost of installation, for which such member, partner or individual has not already been reimbursed. 2 Geo. V. c. 38, s. 38.

CHAPTER 189.

An Act respecting Corporations operating certain
Public Utilities.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Public Utilities Corporations Act*. *New.*

2. In this Act,

“Public
Utility,”
meaning of.

“Public Utility” shall mean and include any water works, gas works, electric heat, light or power works, telegraph and telephone lines, railways however operated, street railways and works for the transmission of gas, oil, water or electrical power or energy, or any similar works supplying the general public with necessities or conveniences.
7 Edw. VII. c. 37, s. 1.

Forfeiture of
rights by com-
pany passing
out of jurisdic-
tion of Pro-
vince.

3.—(1) Where the undertaking of a company operating a Public Utility heretofore or hereafter incorporated under a general or special Act of this Legislature has been, since the 19th day of February, 1907, or hereafter shall be declared by the Parliament of Canada to be a work for the general advantage of Canada, or absorbed by or amalgamated with or controlled or operated by any other company whose undertaking is or has been declared a work for the general advantage of Canada, or which is not subject to the legislative control of Ontario, the Lieutenant-Governor in Council may declare that all or any of the powers, rights, privileges and franchises conferred upon such first mentioned company by letters patent or by any general or special Act of this Legislature shall be forfeited and thereupon all such powers, rights, privileges and franchises so declared to be forfeited shall cease and determine; and every municipal by-law passed and every agreement entered into with any municipal corporation authorizing such company to carry on business or granting to it any right, privilege or franchise shall also thereupon become void and be of no effect, and such company shall forfeit all claim to any bonus or other aid granted by any municipal corporation or by this Legislature.

Proviso.

(2) Nothing in this section shall affect the validity of any debenture issued by a municipal corporation for payment

of any such bonus in the hands of a *bona fide* holder for valuable consideration, nor the claim of any *bona fide* creditor of such company. 7 Edw. VII. c. 37, s. 2.

4.—(1) Notwithstanding anything in any Act contained a municipal corporation shall not hereafter enter into any agreement with any such company or pass any by-law in relation to any Public Utility which has been declared to be a work for the general advantage of Canada, or which is not within the legislative control of Ontario, until the Lieutenant-Governor in Council has approved of such agreement or by-law, and every agreement entered into and by-law passed in violation of this section shall be utterly void and of no effect.

Municipal corporations not to contract with companies not under jurisdiction of Province.

(2) The Lieutenant-Governor in Council may, from time to time, in advance of such agreements or by-laws approve of any class or description of such agreements or by-laws in regard to any corporation named in the Order in Council.

Proviso.

7 Edw. VII. c. 37, s. 3.

CHAPTER 190.

An Act respecting Security by Guarantee Companies.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Guarantee Companies Securities Act*. 9 Edw. VII. c. 67, s. 1.

2. In this Act,

Interpretation.

“Guarantee company” shall mean an incorporated company empowered to grant guarantees, bonds, policies, or contracts for the integrity and fidelity of employed persons, or in respect of any legal proceedings or for other like purposes approved by the Lieutenant-Governor in Council. 9 Edw. VII. c. 67, s. 2.

Bonds of Guarantee Company may be taken by officers and others.

3. Where any judge, functionary, officer or person is entitled or required to take security by bond with sureties he may in lieu thereof take the bond, policy or guarantee contract of a guarantee company of the like nature and effect. 9 Edw. VII. c. 67, s. 3.

Persons required to give security may give bond of Guarantee Company.

4. Where any person is required to give security by bond with sureties he may in lieu thereof furnish the bond, policy or guarantee contract of a guarantee company of the like nature and effect. 9 Edw. VII. c. 67, s. 4.

Justification not required.

5. The guarantee company shall not be bound or required to justify. 9 Edw. VII. c. 67, s. 5.

Bond of Company may be substituted for other bonds.

6. The bond, policy or guarantee contract of a guarantee company may be taken instead of or in substitution for any existing security if the judge, functionary, officer or person, mentioned in section 3, so directs. 9 Edw. VII. c. 67, s. 6; 2^d Geo. V. c. 39, s. 1.

Interim receipt in lieu of bond.

7. The interim receipt of a guarantee company may be accepted in lieu of a bond, policy or guarantee contract, but the latter shall be furnished within one month. 9 Edw. VII. c. 67, s. 7.

8. Every Order in Council approving of a guarantee company shall immediately after the making thereof be published in the *Ontario Gazette*, and shall be laid forthwith before the Assembly if in session and if not then in session then within the first fifteen days of the next session thereof.

Publication of
Order in
Council and
laying before
Assembly.

2 Geo. V. c. 39, s. 2.

CHAPTER 191.

An Act respecting Cheese and Butter Exchanges.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Cheese and Butter Exchanges Act*.

Incorporation of cheese and butter exchanges.

2.—(1) Any five or more persons each of whom shall be

(a) Engaged in the manufacture and sale of cheese or butter, or a member of some firm or partnership carrying on the business of manufacturing cheese or butter, or a person appointed in writing to represent any person, firm or partnership or the patrons of a factory so engaged, or

(b) A person elected or appointed by the shareholders of any cheese or butter manufacturing association or company, or

(c) Engaged in the business of buying cheese or butter for export or re-sale, or appointed in writing to represent any person, firm or corporation engaged in such business,

who desire to associate themselves together for the purpose of carrying on a cheese and butter exchange may make, sign and acknowledge before a notary public, a commissioner for taking affidavits, or a justice of the peace, in duplicate, and file in the office of the registrar of the registry division in which such exchange is to be carried on a certificate in writing, Form 1, or to the same effect, together with the rules and regulations signed by such persons respectively.

Certificate of Association.

Verifying signature to rules.

(2) The signatures to the rules shall be verified by the affidavit of the subscribing witness thereto made before a notary public, justice of the peace or commissioner authorized to take affidavits, or before the registrar or deputy-registrar.

Approval of rules by Minister.

(3) Before the filing of the certificate and rules they shall be approved by the Minister of Agriculture of Ontario in writing signed by him and endorsed thereon.

Corporate powers.

(4) Upon the filing of the certificate and rules, the persons signing such declaration and rules shall become a body corporate by the name described with the power to hold such land and other real and personal property as are

required for the convenient management of the business of such exchange. 62 V. (2), c. 20, s. 1.

3.—(1) The registrar shall, if desired by the person filing the certificate, endorse on the other duplicate certificate and upon the duplicate of the rules, certificates of the other duplicates having been filed in his office with the date of filing, and every such certificate shall be *prima facie* evidence of the facts set out therein and of the incorporation of the exchange. Endorsement of registrar—effect of as evidence.

(2) The certificate so to be filed shall designate the place where the business of the exchange is to be carried on. 62 V. (2), c. 20, s. 2.

4. The fees to be charged by the registrar for filing any certificate shall be fifty cents, and for every search relating thereto ten cents. 62 V. (2), c. 20, s. 3. Fees of registrar.

5. The rules to be filed as hereinbefore mentioned shall contain regulations respecting,— Rules, what to be dealt with.

- (a) The mode of convening general and special meetings of the members of the exchange; Meetings.
- (b) Provisions for the auditing of the accounts of the exchange. Audit.
- (c) The power and mode of withdrawal of members and the admission, suspension and expulsion of members; Admission, etc., of members.
- (d) The appointment of officers and their respective duties, including provisions for filling vacancies caused by death, resignation and other causes; Officers.
- (e) The mode of conducting the purchase and sale of cheese and butter at the exchange, and contracts for the purchase and sale thereof by members of the exchange; Conduct of business.
- (f) The inspection, weighing and shipment of cheese and butter and the time and mode of payment for cheese or butter bought or sold on the exchange; Inspection, etc., of cheese and butter.
- (g) Imposing penalties for the infraction of the rules of the exchange by members thereof; Penalties for infraction of rules.
- (h) The annual and other fees to be payable by members of the exchange; and Fees of members.
- (i) The settlement by arbitration of disputes respecting contracts made on the said exchange. 62 V. (2), c. 20, s. 4. Arbitrations.

Rules to bind members.

6. The rules of every exchange registered under this Act shall bind the exchange and members thereof to the same extent as if each member had subscribed his name and affixed his seal thereto, and all money payable by any member to the exchange in pursuance of any such rule shall be deemed to be a debt due from such member to the exchange and shall be recoverable by action. 62 V. (2), c. 20, s. 5.

Changes in rules not to take effect until approved by minister.

7. All rules made by the exchange may be repealed, altered or amended by other rules passed at any meeting of the members of the exchange specially called for that purpose, but no new rules shall have any force or effect until a copy, proved by the affidavit of the president or other head officer of the exchange to be a true copy of the rules passed by the members of the exchange at a meeting specially called for the purpose of considering the same, has been approved in writing endorsed thereon by the Minister of Agriculture and has been filed in the registry office in which the certificate of incorporation was filed. 62 V. (2), c. 20, s. 6.

Annual return to Minister of Agriculture.

8. The secretary, or other officer appointed for this purpose by any exchange incorporated under this Act, shall once in every year transmit to the Minister of Agriculture a list of the officers of such exchange and a statement of the business transacted by the exchange during the year in such form as the Minister may direct and on such schedules as he may provide. 62 V. (2), c. 20, s. 7.

FORM 1.

(Section 2.)

CERTIFICATE OF ASSOCIATION.

Province of Ontario, } We (insert names of subscribers not less than
TO WIT: } five) do hereby certify that we desire to
form an association pursuant to the provisions of *The Cheese and Butter Exchanges Act*.

The corporate name of the Exchange is to be (insert name of the Exchange), and the name of the place (or places) where the operations of the said Exchange are to be carried on is (or are) (insert name of place or places where the operations of such Exchange are to be carried on).

Dated the _____ day of _____

(Signatures.)

On the _____ day of _____ A.D. 19____ before me personally appeared (insert names of subscribers to the certificate) to me known to be the individuals described in the foregoing certificate and they severally before me signed such certificate and acknowledged that they signed the same for the purposes therein mentioned.

A. B.,

Justice of the Peace, or
Commissioner for taking Affidavits, or Notary Public.

62 V. (2), c. 20, Schedule.

SECTION XIV.

MUNICIPAL MATTERS.

CHAPTER 192.

An Act respecting Municipal Institutions.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PRELIMINARY.

1. This Act may be cited as *The Municipal Act*. 3-4 Geo. Short title. V. c. 43, s. 1.

2. In this Act,

Interpreta-
tion.

- (a) "Arbitration" shall mean an arbitration under the provisions of this Act. "Arbitra-
tion."
- (b) "Bridge" shall mean a public bridge, and shall include a bridge forming part of a highway or on, over or across which a highway passes. "Bridge."
- (c) "City," "town," "village," "township," and "county" shall respectively mean city, town, village, township or county, the inhabitants of which are a body corporate within the meaning and for the purposes of this Act. "City."
"Town."
"Village."
"Town-
ship."
"County."
- (d) "Electors," when applied to a municipal election, shall mean the persons entitled to vote at a municipal election, when applied to voting on money by-law shall mean the persons entitled to vote on the by-law and when applied to voting on any other by-law or on a resolution or question unless otherwise provided by the Act, by-law, or other authority under which the vote is taken, shall mean municipal electors. "Electors."
- (e) "Highway" shall mean a common and public highway, and shall include a street and a bridge forming part of a highway, or on, over or across which a highway passes. "Highway."

- "Land." (f) "Land" shall include lands, tenements, and hereditaments, and any estate or interest therein, and any right or easement affecting them, and land covered with water.
- "Local Municipality." (g) "Local municipality" shall mean a city, a town, a village and a township.
- "Member." (h) "Member" or "members," referring to a member or members of a council shall include the head of the council, and a member or members of a Board of Control.
- "Money by-law." (i) "Money by-law" shall mean a by-law for contracting a debt or obligation or for borrowing money.
- "Municipal Board." (j) "Municipal Board" shall mean Ontario Railway and Municipal Board.
- "Municipal electors." (k) "Municipal electors" shall mean the persons entitled to vote at a municipal election.
- "Municipality." (l) "Municipality" shall mean a locality, the inhabitants of which are incorporated.
- "Population." (m) "Population" shall mean population as determined by the last preceding census taken under the authority of the Parliament of Canada, or under a by-law of the council, or by the last preceding municipal enumeration by the assessor whichever shall be the latest.
- "Prescribed." (n) "Prescribed" shall mean prescribed by or under the authority of this Act.
- "Published." (o) "Published" shall mean published in a newspaper in the municipality to which what is published relates, or which it affects, or if there is no newspaper published in the municipality, in a newspaper published in an adjacent or neighbouring municipality; and "publication" shall have a corresponding meaning.
- "Publication." (p) "Separated town" shall mean town separated for municipal purposes from the county in which it is situate.
- "Separated town." (q) "Separated town" shall mean town separated for municipal purposes from the county in which it is situate.
- "Supreme Court." (r) "Supreme Court" shall mean Supreme Court of Ontario.
- "Township." (s) "Township" shall include a union of townships, and a municipality composed of two or more townships.
- "Two-thirds vote." (t) "Two-thirds vote" shall mean the affirmative vote of two-thirds of the members of a council present at a meeting thereof.

(t) "Unorganized territory" shall mean that part of "Unorganized territory." Ontario without county organization.

(u) "Urban municipality" shall mean and include a "Urban municipality." city, a town, and a village. 3-4 Geo. V. c. 43, s. 2.

3.—(1) Where under the provisions of this Act evidence When is taken orally before a Special Examiner or a Judge he may evidence may be direct that the same be taken in shorthand by a stenographic taken in shorthand. reporter.

(2) The fees of the stenographic reporter including those Fees of for the transcribing of his notes shall be paid by the party on reporter, whose behalf the evidence is taken, and the same shall form how paid. part of the costs of the proceedings in which the evidence is taken. 3-4 Geo. V. c. 43, s. 3.

4. Where registration in a registry office is prescribed or Registration provided for by this Act it shall mean where *The Land Titles* in office of land Act is applicable, registration in the office of the Master or titles. Local Master of Titles of the locality in which the land is Rev. Stat. situate. 3-4 Geo. V. c. 43, s. 4. c. 126.

5. A person in the actual occupation of land under an When agreement with the owner for the purchase of it shall be occupant deemed to be the owner, and the unpaid purchase money deemed to be owner. shall be deemed to be an encumbrance on the land. 3-4 Geo. V. c. 43, s. 5.

6. Where power to acquire land is conferred upon a muni- Power to cipal corporation by this or any other Act, unless otherwise acquire expressly provided, it shall include the power to acquire by includes ex- purchase or otherwise and to enter on and expropriate. propriation. 3-4 Geo. V. c. 43, s. 6.

7. Except where otherwise expressly provided, this Act Special shall not affect the provisions of any special Act relating to Acts not a particular municipality. 3-4 Geo. V. c. 43, s. 7. affected.

8. The inhabitants of every county, city, town, village, and Inhabitants township shall be a body corporate for the purposes of this of municip- Act. 3-4 Geo. V. c. 43, s. 8. alities to be bodies corporate.

9. The name of the body corporate shall be "*The Corpora- Names of tion of the County [United Counties, City, Town, Village, municipal corpora- Township (as the case may be)], of tions. (naming the municipality).*" 3-4 Geo. V. c. 43, s. 9.

10. The powers of a municipal corporation shall be exer- Council to cised by its council. 3-4 Geo. V. c. 43, s. 10. exercise corporate powers.

PART-I.

*FORMATION OF NEW CORPORATIONS AND
ALTERATIONS OF BOUNDARIES OF
MUNICIPALITIES.*

"District,"
meaning of.

11. In this Part, "district" shall mean part of a township or parts of two or more townships which it is proposed to erect into a village or part of a township which it is proposed to add to another municipality, or the part so erected or added, as the case may be. 3-4 Geo. V. c. 43, s. 11.

Erection of
village.

12. Under and subject to the provisions and conditions hereinafter mentioned, a district may be erected into a village by the council of the county in which it is situate, or if the district comprises parts of two or more counties by the council of the county in which the larger or largest part of the district is situate. 3-4 Geo. V. c. 43, s. 12.

Procedure
for erection
of village.

13.—(1) Where a petition, signed, if the district or part of it lies within one mile of the limits of a city having a population of not less than 100,000, by at least two-thirds and in other cases by at least 100 of the freeholders and resident tenants of the district whose names are entered on the last revised assessment roll of the municipality in which the district is situate, and in the case of tenants who have been resident in the district for at least four months next preceding the presentation of the petition, all of the petitioners being of the full age of 21 years, and at least one half of them freeholders, praying for the erection of the district into a village, is presented to the council, the council, if the district has a population exceeding 750, shall, within three months after the presentation of the petition, pass a by-law erecting the district into a village, declaring the name which it shall bear and its boundaries.

Lot of
petitioner
to be
designated.

(2) Opposite the name of every petitioner there shall be shown, by reference to the number of the lot, the land owned or occupied by him, and where it is or forms part of a lot laid down on a registered plan, the reference shall be to the number of the lot according to the plan, and the petition shall also show whether the petitioner is a freeholder or resident tenant.

Presentation
of petition.

(3) A petition shall be deemed to be presented when it is lodged with the clerk, and the sufficiency of the petition shall be determined by him and his certificate shall be conclusive in reference thereto.

Special
census.

(4) The number of the inhabitants of the district shall be ascertained by a special census taken by direction of the council.

Time for
passing
by-law.

(5) The by-law shall not be passed before the expiration of one month after the presentation of the petition, or unless within two months next preceding the meeting of the council

at which it is to be considered notice has been given of the intention of the council to take it into consideration.

(6) The notice shall be published at least once a week for two successive weeks, and shall contain a description of the district sufficiently full to indicate the land which it is intended to embrace in the proposed village. Publication of notice as to consideration of by-law.

(7) The council may require that the expenses of taking the census and of publishing the notice be paid by the petitioners, or that a sum sufficient to defray them be deposited with the clerk. Expenses of census, etc.

(8) The clerk shall forthwith, after the passing of it, transmit a certified copy of the by-law to the Provincial Secretary, who shall cause notice of it to be published in the *Ontario Gazette*. By-law to be published in Ontario Gazette.

(9) After the expiration of three months from the publication of the notice of the by-law, and after the final disposition of any application to quash it made within that period, if the application is unsuccessful, the by-law shall not be liable to be quashed on any ground, and the village thereby erected shall be deemed to have been duly erected in accordance with the provisions of this Act. 3-4 Geo. V. c. 43, s. 13. Time for applying to quash by-law.

14.—(1) Subject to subsection 2, the area of a town or village hereafter erected shall not exceed five hundred acres for the first one thousand or less, with two hundred acres added for each additional one thousand in excess of one thousand of its population. Area of town or village in a county.

(2) In unorganized territory, the area of a town shall not exceed 750 acres for the first 500 of its population, with 300 acres added for each additional 500. In unorganized territory.

(3) An addition shall not be made to any town or village which will have the effect of increasing its area beyond the prescribed area. No addition beyond prescribed area.

(4) Land occupied by highways, parks, and public squares shall be excluded in determining the area. 3-4 Geo. V. c. 43, s. 14. Highways, parks, etc., not to be included in area.

15.—(1) Where a village comprises parts of two or more counties, it shall be annexed to, and form part of, that one of them which shall be agreed on by the councils, or which, failing an agreement within six months after the presentation of the petition, the Lieutenant-Governor in Council may by proclamation direct. Annexation of village in two or more counties to one county.

(2) If an agreement is come to, the clerk of each of the councils shall forthwith notify the Provincial Secretary of it, and, if an agreement is not come to within the period mentioned in subsection 1, shall forthwith, after the expiration of that period, notify the Provincial Secretary of the fact. Agreement between councils as to annexation of village.

If councils agree notice to be published in Gazette.

(3) Where the councils agree as to the county to which the village shall be annexed, the Provincial Secretary shall forthwith, after notice of the agreement, cause to be published in the *Ontario Gazette* notice of the county to which the village has been annexed. 3-4 Geo. V. c. 43, s. 15.

Erection of police village into a village.

16. A police village may be erected into a village in the manner and subject to the conditions mentioned in section 13. 3-4 Geo. V. c. 43, s. 16.

Annexation of district to village.

17. The Municipal Board may, upon the application of the council of a village, annex a district to it where from the proximity of the streets or buildings in the district or the probable future exigencies of the village, the Board deems it expedient. 3-4 Geo. V. c. 43, s. 17.

Annexation of land to township in unorganized territory.

18.—(1) The Municipal Board may annex land in unorganized territory to an adjacent incorporated township therein, and may also, on the application of two or more adjacent townships in such territory, form them, with or without additional territory, into one township municipality, bearing such name as the Board may direct.

Annexation of land to city or town in unorganized territory.

(2) The Board, on the application of the council of a city or town in unorganized territory, may annex to the city or town the whole or any part of an adjoining unorganized township, on such terms and conditions as may be determined by the Board. 3-4 Geo. V. c. 43, s. 18.

Incorporation of towns in unorganized territory.

19.—(1) Subject to subsection 2 of section 14, the Municipal Board may, upon the application of not less than 75 male inhabitants of the locality, each of the full age of twenty-one years, incorporate as a town the inhabitants of a locality having a population of at least 500, and situate in one or more of the provisional judicial districts, whether or not it lies within an existing township municipality.

Order of Board.

(2) The order of the Board shall declare the name which the town shall bear, and its boundaries. 3-4 Geo. V. c. 43, s. 19.

Erection of cities and towns.

20.—(1) The Board may erect a town having a population of not less than 15,000 into a city, and a village having a population of not less than 2,000 into a town, and declare the name which it is to bear.

Part of township may be included.

(2) Where, from the proximity of streets or buildings or the probable future exigencies of the newly erected city or town, the Board deems it desirable that part of one or more adjacent townships should be included in it, the Board may, subject to the provisions of subsection 6, detach such part from the township or townships and annex it to the newly erected city or town.

(3) The newly erected city or town shall be divided into wards bearing such numbers or names as the Board may direct. Division into wards.

(4) The number of wards in the town shall not be less than three, and each of the wards in the city or town shall have a population of not less than five hundred. Number of wards.

(5) Notice of the application for the erection of a town into a city or of a village into a town shall be published at least once a week for three months. Notice of application.

(6) Where it is proposed that part of one or more adjacent townships shall be embraced in the newly erected city or town, the notice shall so state and shall designate the part proposed to be embraced therein. Part of township included to be described.

(7) The order shall be conclusive evidence that all conditions precedent to the making of it have been complied with, and that the city or town has been duly erected in accordance with the provisions of this Act. 3-4 Geo. V. c. 43, s. 20. Force of order.

21.—(1) Where the council of a city or town by resolution declares that it is expedient that part of an adjacent township should be annexed to the city or town, and the majority of the municipal electors in such part petition the Board to add the same to such city or town, and after due notice of such resolution and petition has been given by the council of such city or town to the council of such adjacent township, and also, where the part is proposed to be added to a city or to a separated town to the council of the county in which the township is situate, the Board may, by order to take effect upon a day to be named therein, annex such part to the city or town upon such terms and conditions as to the adjustment of assets and liabilities, taxation, assessment, improvements or otherwise as may have been agreed upon, or as shall be determined by the Board. Adding territory to city or town.

(2) The order may, before it takes effect, be amended in any respect by a further order, and may at any time when it does not correctly set forth the terms and conditions as to the adjustment of assets and liabilities, taxation, assessment, improvements or otherwise agreed upon, be amended to conform with the agreement. Amendment of order.

(3) The Board may direct that a vote be taken for determining whether or not the majority of the municipal electors of the part proposed to be annexed are in favour of its being annexed, and may fix the time and place for the taking of the vote, name the returning officer and make such other provisions as may be deemed necessary. 3-4 Geo. V. c. 43, s. 21. Board may order vote to be taken.

22. Where territory constituting or forming part of a local municipality becomes part of a local municipality in another county, it shall thereafter form part of that county. Adding territory to municipality in another county.

except for the purpose of representation in the Assembly.
3-4 Geo. V. c. 43, s. 22.

Annexation
of town
or village
to adjacent
urban muni-
cipality.

23.—(1) The Board may annex a town or a village to an adjacent urban municipality, where:

(a) The councils of the town or village and of the adjacent urban municipality by by-law assent to the annexation; and

(b) The assent of the municipal electors of the town or village is given to the by-law of the council thereof.

Provisions
of by-law.

(2) Subject to the provisions of subsection 5, the by-law may provide for the annexation unconditionally, or on such terms as may be deemed expedient.

New city
or town
may be
erected.

(3) If the urban municipality to which the town or village is annexed has the requisite population, it may be erected into a city or town bearing such name as the Board may direct.

Division
into wards.

(4) Such redivision into wards of the city or town as the annexation renders necessary shall also be made.

By-law to be
submitted
on petition
of 150
electors.

(5) If a petition, signed by at least 150 electors of a town or village, praying that it may be annexed to an adjacent urban municipality, either unconditionally or on such terms as may be stated in the petition, is presented to the council of the town or village the council shall within four weeks after the presentation of the petition submit to the electors of the town or village for their assent thereto, a by-law providing for its annexation on the terms mentioned in the petition. 3-4 Geo. V. c. 43, s. 23.

[As to formation of new Townships, see Rev. Stat. c. 3, s. 11.]

TOWNSHIPS.

Formation
of townships
in unor-
ganized
territory.

24.—(1) The inhabitants of a township in unorganized territory having a population of not less than 100, and the inhabitants of a locality not surveyed into townships having an area of not more than 20,000 acres and a population of not less than 100, may become incorporated as a township municipality.

Petition
for incor-
poration.

(2) Upon the receipt of a petition praying for incorporation, signed by not less than 30 of the resident householders of the township or locality, and defining the limits of the proposed municipality, and a deposit being made of a sum sufficient to defray the expenses of the meeting to be held as hereinafter mentioned, a Judge of the District Court of the Provisional Judicial District in which the township or locality is situate may call a meeting of the inhabitants of it to consider the expediency of becoming incorporated and to choose a reeve and four councillors for the proposed municipality, and he shall name a fit person to be the chairman

District
Judge to call
meeting.

of the meeting, and make such provisions as he may deem proper for the conduct of the meeting and the manner of choosing the reeve and councillors; and notice of the meeting shall be given in such manner as the Judge shall direct.

(3) Every resident male householder of the full age of 21 years and a British subject shall be entitled to vote or to be elected as reeve or councillor at such meeting. Qualification at first election.

(4) The chairman shall preside at the meeting and shall record the votes given, and in the case of an equality of votes between two candidates for the office of reeve or councillor he shall give the casting vote, and he shall forthwith, after the close of the meeting, make a report in writing of the result of it to the Judge. Chairman of meeting.

(5) The report shall contain a statement of the votes given for and against the proposed incorporation, and for and against each person proposed for reeve or councillor, and shall be verified by the oath of the chairman. Report to Judge.

(6) If it appears to the Judge from the report that a majority of the inhabitants present at the meeting voted in favour of incorporation, and that those so voting number or include not less than 30 resident householders and no objection to the report or to the manner in which the meeting was conducted or the reeve and councillors were chosen has been filed with the Judge within 10 days after the receipt by him of the report, the Judge shall declare in writing, Form 1, the inhabitants of the township or locality to be incorporated in accordance with the prayer of the petition and state the persons who were elected as reeve and councillors and fix the time and place for the first meeting of the council, and shall forthwith transmit to the Minister of Lands, Forests and Mines, and to the Provincial Secretary, a certified copy of the declaration, and the Provincial Secretary shall thereupon cause notice of it to be published in the *Ontario Gazette*. Declaration of incorporation.

(7) If such an objection is filed within the prescribed time the Judge shall hear and determine the matter complained of, and if he finds that the complaint is well founded shall call a new meeting and perform the other duties assigned to him by subsections 2 and 6. Hearing objections.

(8) The incorporation shall be deemed to be complete when the Judge has signed the declaration, but shall not take effect until the 31st day of December following. When incorporation complete.
3-4 Geo. V. c. 43, s. 24.

UNION OF TOWNSHIPS.

25. A union of townships shall consist of two or more townships united for municipal purposes and having in common, as if one township, all offices and institutions established by law pertaining to township municipalities. Union of Townships.
3-4 Geo. V. c. 43, s. 25.

Annexation of new townships in unorganized territory to a county.

26. The Lieutenant-Governor in Council may, by proclamation, annex a township, or two or more townships lying adjacent to one another laid out by the Crown in unorganized territory, to any adjacent county, and may erect the same with another township of such county into a union of townships. 3-4 Geo. V. c. 43, s. 26.

Incorporation of union of townships.

27.—(1) The inhabitants of two or more townships in unorganized territory, adjacent to one another, and having in the aggregate a population of not less than 100, may become incorporated as a union of townships.

Proceedings.

(2) The proceedings for and incidental to the incorporation and the election of the members of the first council shall be the same as provided by section 24. 3-4 Geo. V. c. 43, s. 27.

Union of junior township, after separation, with adjoining township.

28. If two-thirds of the resident freeholders and tenants of a junior township whose names are entered on the last revised assessment roll petition the council of the county to be separated from the union to which it belongs, and to be attached to another adjoining township in the county, and the council considers that the interest and convenience of the inhabitants of the township would be promoted thereby, such council may separate it from the union, and may erect it with such adjoining township into a union of townships. 3-4 Geo. V. c. 43, s. 28.

Seniority of united townships, how determined.

29. The order of seniority of townships forming a union of townships shall be determined by the number of freeholders and tenants thereof whose names are entered on the last revised assessment roll, and the township having the largest number of them shall be the senior township, and the other or others the junior township or townships, and where there is no such assessment roll for all or any one or more of the townships their seniority shall be determined by the functionary or body by which the union is formed. 3-4 Geo. V. c. 43, s. 29.

[As to annexation of gores, etc., to Townships, see *Rev. Stat. c. 3, s. 14.*]

SEPARATION OF JUNIOR TOWNSHIP FROM UNION.

Junior township containing 100 freeholders, etc., may be separated from union.

30.—(1) When a junior township of a union of townships has 100 resident freeholders and tenants whose names are entered on the last revised assessment roll, the county council, if the union is not in unorganized territory, may separate the township from the union.

(2) If the junior township is in unorganized territory and has a population of not less than 100, the Municipal Board, upon the application of not less than 15 of the assessed freeholders and tenants therein, may separate the township from the union.

(3) If a junior township has 50, but less than 100 resident freeholders and tenants whose names are entered on the last revised assessment roll, and two-thirds of such resident freeholders and tenants petition the council of the county to separate the township from the union and the council considers the township to be so situated with reference to natural obstructions, that its inhabitants cannot conveniently remain united with the inhabitants of the other township or townships, the council may separate it from the union.

Separation of junior township containing 50 freeholders, etc.

(4) Where a union of townships consisting of more than two townships is dissolved by the withdrawal of a junior township, the remaining townships shall constitute the union which shall be continued under its former name, omitting that of the junior township.

Names of townships after separation.

(5) Where a union of townships consisting of two townships only is dissolved, the inhabitants of each of the townships shall become a separate corporation bearing the name of the township. 3-4 Geo. V. c. 43, s. 30.

Where union of two is dissolved.

DATE WHEN NEW INCORPORATION TO TAKE EFFECT.

31.—(1) Where a new corporation is constituted under this Act, the incorporation shall take effect on the 31st day of December next after the proclamation, order of the Municipal Board or by-law by which it is effected, and except in the case of a town being erected into a city or a village into a town the functionary or body by which the new corporation is constituted shall fix the place for holding the first election, appoint a returning officer, and otherwise provide for the holding of the election according to law.

When new incorporation to take effect..

(2) The returning officer shall perform all the duties in connection with the election which in other cases are to be performed by the clerk of a local municipality, and shall act as clerk of the new municipality until a clerk is appointed and has taken the oath of office. 3-4 Geo. V. c. 43, s. 31.

Duties of returning officer.

As to registration of by-laws, etc., erecting a village, town or city, or enlarging, diminishing or altering the boundaries of a municipality, see The Registry Act, Rev. Stat. c. 124, s. 70.

MATTERS CONSEQUENT UPON THE FORMATION OF NEW CORPORATIONS.

32. The erection of a district into a village, of a village into a town, or of a town into a city, or the separation of a township from a union of townships shall not affect the by-laws then in force in the district or municipality but the same shall remain in force until repealed by the council of the newly erected municipality, but nothing herein shall

By-laws of old corporation to remain in force until repealed.

authorize the amendment or repeal of a by-law which the council by which it was passed could not lawfully amend or repeal. 3-4 Geo. V. c. 43, s. 32.

What by-laws to be in force in territory annexed to a municipality.

33. Where a district or a municipality is annexed to a municipality, its by-laws shall extend to such district or annexed municipality, and the by-laws in force therein shall cease to apply to it, except those relating to highways, which shall remain in force until repealed by the council of the municipality to which the district or municipality is annexed, and except by-laws conferring rights, privileges, franchises, immunities or exemptions which could not have been lawfully repealed by the council which passed them. 3-4 Geo. V. c. 43, s. 33.

ASSETS, DEBTS AND LIABILITIES.

Liability for debts of union.

34. Where a junior township is separated from a union of townships the senior or remaining township or townships shall be liable to the creditors of the union for all the debts and obligations of the union. 3-4 Geo. V. c. 43, s. 34.

Taxes for current year to belong to senior or remaining townships.

35. Where a junior township is separated from a union of townships all taxes imposed by the council of the union for the year in which the separation takes place shall be collected and paid over to the senior or remaining township or townships. 3-4 Geo. V. c. 43, s. 35.

Disposition of property upon dissolution of union.

36. After a junior township is separated from a union of townships the property of the union shall be disposed of as follows:

Real property.

(a) The real estate situate in the junior township shall become the property of that township;

(b) The real estate situate in the remaining township or townships shall be the property of the remaining township or townships;

Other assets.

(c) The two corporations shall be jointly interested in the other assets of the union, and the same shall be retained by the one, or shall be divided between them, or shall be otherwise disposed of, as they may agree;

Arrangement as to property and debts.

(d) The one shall pay or allow to the other, in respect of the disposition of the real and personal estate of the union, and in respect of its debts, such sum as may be just;

How to be determined in case of disagreement.

(e) If the councils of the two corporations do not, within three months after the first meeting of the council of the junior township, agree as to the disposition of the personal estate, or as to the sum to be paid by the one to the other, or as to

the time of payment thereof, the matters in dispute shall be determined by arbitration;

- (f) The amount so agreed upon or determined shall bear interest from the day on which the union was dissolved; and the same shall be provided for by the corporation which is to pay it, as in the case of other debts. 3-4 Geo. V. c. 43, s. 36.

Amount settled to bear interest.

37. Where one local municipality is annexed to another the corporation of the latter shall become and be liable to the creditors of the corporation of the former for its debts and obligations and all the property and assets of the corporation of the annexed municipality shall be vested in the corporation of the municipality to which it is annexed, and that corporation shall have the same rights and powers as respects the collection and recovery of all unpaid taxes imposed by the council of the annexed municipality including those for the year in which the annexation takes effect as if such taxes had been imposed by the council of the municipality to which it is annexed. 3-4 Geo. V. c. 43, s. 37.

Liability to creditors and right to collect taxes where one municipality annexed to another.

38.—(1) Where a district is erected into a village, or is detached from one and annexed to another local municipality, there shall be an adjustment of assets and liabilities between the corporation of the municipality from which the district becomes or is detached and the corporation of the village or of the municipality to which the district is annexed, as the case may be, and if the interest of the district in the assets of the corporation of the municipality from which it becomes or is detached exceeds its proportion of the liabilities thereof, that corporation shall pay to the corporation of the village or of the municipality to which the district is annexed, as the case may be, the amount of the excess; but if the district's proportion of such liabilities exceeds its interest in such assets the corporation of the village or of the municipality to which the district is annexed, as the case may be, shall pay to the corporation of the municipality from which the district becomes or is detached the amount of the excess.

Adjustment of assets and liabilities between village erected or district annexed to a municipality.

(2) If the corporations do not within three months after the separation takes effect agree as to such adjustment, the matter shall be determined by arbitration.

Arbitration.

(3) Where a district is detached as well from a county as from the local municipality, of which it forms part, there shall be a similar adjustment of the assets and liabilities of the corporation of the county from which the district is detached between that corporation and the corporation of the county to which the district is annexed, and the provisions of subsections 1 and 2 shall *mutatis mutandis* apply.

Where district becomes part of another county.

(4) If the corporation of the county, or of the local municipality, does not within three months after the separation takes effect notify the corporation of the other county or

When right to adjustment barred.

local municipality that it requires an adjustment of the assets and liabilities, its right to claim an adjustment shall be barred.

Case of town erected into a city or a town or village annexed to city or separated town.

(5) Where a town not being a separated town is erected into a city, or a town or village is annexed to a city or separated town, there shall be a similar adjustment of the assets and liabilities of the corporation of the county from which the town or village is withdrawn between that corporation and the corporation of the city or separated town.

No allowance to city for interest in court house or gaol.

(6) Where a town is erected into a city the city shall not be entitled in the adjustment of assets and liabilities to any allowance in respect of its interest in the court house or gaol of the county. 3-4 Geo. V. c. 43, s. 38.

Ownership of real estate in district erected into village or annexed to a municipality.

39.—(1) Where a district is erected into a village or is detached from one local municipality and annexed to another, the real estate belonging to the corporation from which the district becomes or is detached and situate therein, shall belong to and be vested in the corporation of the village or of the municipality to which the district is annexed, as the case may be, but this shall not apply to a town hall and the land on which it is erected or which is used or enjoyed in connection with it, but the same shall remain the property of the corporation of the municipality from which the district becomes or is detached.

Collection of taxes.

(2) The taxes imposed by the council of the municipality from which the district becomes or is detached for the year in which it is detached shall belong to the corporation of that municipality and may be collected and recovered by it as if the district had not been detached but still remained part of the municipality. 3-4 Geo. V. c. 43, s. 39.

Powers to proceed with local improvements upon lands annexed to another municipality.

Rev. Stat. cc. 198, 193.

40.—(1) Where a work or service coming within the provisions of *The Municipal Drainage Act* or of *The Local Improvement Act* has been undertaken by a corporation, and after it has become liable for the carrying out of the same, any land liable to be specially assessed becomes a new municipality or is annexed to another municipality, the corporation of the municipality from which such land becomes or is detached may complete such work or service, and may enter upon and acquire any land lying within such new or other municipality necessary for the completion of such work or service; and may take all such proceedings, pass all such by-laws, make all such special and other assessments, impose all such special and other rates, issue and sell all such debentures, borrow all such money, and do all such other acts and things as are necessary to complete such work or service, and to provide for the cost thereof in the same manner as if the land so liable had not become a new municipality or been annexed to another municipality.

(2) The corporation by which the work or service was undertaken shall be indemnified by the corporation of the municipality which is constituted from such land or to which such land is annexed against all debts and liabilities incurred by it before the formation of the new corporation or the annexation of such land for or in respect of any such work or service to the extent to which the land lying within such new or other municipality was specially assessed; and in adjusting the assets and liabilities consequent on the detachment of such land the debts incurred by the corporation of the municipality from which it was detached, for its share of the cost of such work or service, shall be taken into account.

Municipality to which territory annexed to indemnify municipality undertaking work.

(3) Where the land specially assessed lies wholly within such new or other municipality, the corporation thereof shall be liable for the entire debt in respect of such work or service, and the clerk of the municipality from which the land was detached shall furnish the clerk of such new or other municipality with certified copies of all the by-laws relating to such work or service and the rates imposed by such by-laws shall be collected by the corporation of the new or other municipality, and that corporation shall pay the principal and interest of the debentures issued in respect of such work or service as they become due and shall indemnify the corporation of the municipality from which the land was detached against the same.

Assumption of debt where all of land specially assessed is detached.

(4) Where part only of the land specially assessed lies within the new or other municipality the clerk of the municipality from which it was detached shall furnish the clerk of such new or other municipality with a certified copy of the by-law imposing the special assessment, and the corporation of such new or other municipality in each year in which a special rate upon such land is payable shall collect the same and shall pay over the sums collected to the treasurer of the municipality from which such land was detached, when and as the same are collected, and in the adjustment of the assets and liabilities consequent upon the detachment of such land the debts incurred by the corporation of the municipality from which it was detached for its share of the cost of such work or service shall be taken into account. 3-4 Geo. V. c. 43, s. 40.

Collection of special rates, etc., where part only of land specially assessed is detached.

41. Where the land detached is subject to rates for the payment of a bonus or aid granted by a part of a township in aid of a railway, the provisions of section 40 shall, *mutatis mutandis*, apply. 3-4 Geo. V. c. 43, s. 41.

Rates for payment of bonus to railways by part of township.

42. Where a district is erected into a village, or a village into a town, or a town into a city, or a township is separated from a union of townships, the council having authority in the district or municipality at the time of the erection or separation shall, until the council of the new corporation is organized, continue to have the same powers as before such erection or separation. 3-4 Geo. V. c. 43, s. 42.

Jurisdiction of old Council on formation of new corporation.

Officials and Sureties.

Effect of
separation
upon public
officers
and their
sureties.

43.—(1) The separation of a junior township from a union of townships shall not affect the office, duty, power or responsibility of any officer of the union who continues to be an officer of the remaining township or townships after such separation, or of the sureties of such officer or their liability, further than by limiting such office, duty, power, responsibility, suretyship and liability to the remaining township or townships.

Further pro-
visions as
to officers.

(2) Every such officer shall, after the separation, be the officer of the remaining township or townships as if he had been originally appointed an officer thereof.

Liability
of sureties
for public
officers.

(3) The sureties for such officer shall remain liable, as if they had become his sureties in respect only of the remaining township or townships, and all securities shall, after the separation, be read as if they had been given only to or for the benefit of the remaining township or townships. 3-4 Geo. V. c. 43. s. 43.

New Division into Wards.

New division
of wards in
cities and
towns.

44. Where the council of a city or town, before the 15th day of July in any year, by a vote of two-thirds of all the members, passes a resolution affirming the expediency of a new division into wards of the city or town or of a part of it, the Lieutenant-Governor in Council may by proclamation re-divide the city or town or part of it into wards, as he may deem expedient. 3-4 Geo. V. c. 43, s. 44.

PART II.

MUNICIPAL COUNCILS—HOW COMPOSED.

Counties.

County
Councils,
how
composed.

45. The council of a county shall be composed of the reeves and deputy reeves of the towns, not being separated towns, and of the villages and townships in the county. 3-4 Geo. V. c. 43, s. 45.

Cities.

Councils of
cities, how
composed.

46.—(1) Subject to subsection 7 the council of a city shall be composed of a mayor, the members of the Board of Control, if the city has such a board, and

(a) Three aldermen for each ward, or

(b) Where the council by by-law so provides two aldermen for each ward;

(c) In the case of a city having a population of not more than 15,000, where the council by by-law so provides, one alderman for every 1,000 of the population.

(2) In the case provided for by clause (c) of subsection 1, or where the council of a city having a population of more than 15,000 by by-law so provides, the aldermen shall be elected by general vote, and in the latter case the number of aldermen shall be the same as if they were elected by wards. By-law for election by general vote.

(3) A by-law for the purposes mentioned in clause (b) or (c) of subsection 1 shall not be repealed until at least two annual elections have been held under it, and a by-law under subsection 2 shall not be repealed until at least five annual elections have been held under it. Repeal of by-law.

(4) A by-law for any of the purposes mentioned in subsections 1 and 2 and a by-law repealing any such by-law shall be passed not later in the year than the first day of November and shall not be passed unless it has received the assent of the municipal electors. When and how by-law to be passed.

(5) Every such by-law including a repealing by-law shall take effect at and for the purposes of the annual election next after the passing of it. When by-law to take effect.

(6) Subject to subsection 3 where the petition of at least one-fifth of the municipal electors is presented on or before the first day of November in any year praying for the passing of a by-law repealing a by-law for the purpose mentioned in clause (c) of subsection 1, or where a petition of not less than 400 electors is presented praying for the passing of a by-law for the purpose mentioned in subsection 2, or for the repeal of a by-law passed under that subsection, the council shall submit the question of making the proposed change to a vote of the municipal electors at the next ensuing annual election, and if the voting is in favour of the change shall without delay pass a by-law in accordance with the prayer of the petition. Submission of by-law on petition of electors.

(7) Notwithstanding anything in any special Act the council of the City of Toronto shall consist of the mayor and four controllers to be elected by general vote, and three aldermen for each of the Wards, Numbers 1 to 6 inclusive, and two aldermen for Ward Number 7 until its population, according to the municipal enumeration by the assessor, reaches 30,000, and after that three aldermen for that Ward. 3-4 Geo. V. c. 43, s. 46. Council of City of Toronto.

Towns.

47.—(1) The council of a town in unorganized territory shall be composed of a mayor and six councillors to be elected by general vote. Councils of towns in unorganized territory.

Councils of towns over 5,000.

(2) If the town has a population of not less than 5,000 the council may provide that the council shall be composed of a mayor and nine councillors to be elected by general vote. 3-4 Geo. V. c. 43, s. 47.

Councils of towns in counties.

48.—(1) The council of a town not in unorganized territory having a population of more than 5,000 shall be composed of a mayor, a reeve, as many deputy reeves as the town is entitled to and three councillors for each ward where there are less than five wards, or two councillors for each ward where there are five or more wards.

By-laws for changing composition of council.

(2) Where there are less than five wards the council on the petition of not less than 100 municipal electors shall provide that the number of councillors shall be two for each ward, or may without petition provide that the number of councillors shall be one for every 1,000 of the population to be elected by general vote, or if the population is less than 6,000 that the number of councillors shall be six to be elected by general vote.

Case of town of not more than 5,000.

(3) Where the town has a population of not more than 5,000 the council shall be composed of a mayor, a reeve, as many deputy reeves as the town is entitled to and

(a) Six councillors to be elected by general vote; or

(b) Where the council so provides one councillor for each ward and the remaining councillors to complete the full number of six to be elected by general vote.

Repeal of by-laws.

(4) A by-law for any of the purposes mentioned in subsection 2 of section 47 or subsection 2 or clause (b) of subsection 3 of this section shall not be repealed until two annual elections have been held under it, and a by-law for the purpose mentioned in clause (b) of subsection 3 shall not be passed until two annual elections under clause (a) have been held.

Assent of electors required.

(5) A by-law for any of the purposes mentioned in subsection 2 of section 47 or in subsections 2 and 3 of this section, and a by-law repealing any such by-law shall be passed not later in the year than the first day of November and shall not be passed unless it has received the assent of the municipal electors.

When by-law to take effect.

(6) Every such by-law, including a repealing by-law, shall take effect at and for the purposes of the annual election next after the passing of it.

Submission of questions on petition of electors.

(7) Subject to subsections 2 and 4, where a petition of not less than one-fifth of the municipal electors is presented on or before the first day of November in any year praying for the passing of a by-law for any of the purposes mentioned in this section or for repealing any such by-law, except a by-law reducing the number of councillors to two for each

ward, the council shall submit the question of making the proposed change to a vote of the municipal electors at the next ensuing annual election and if the voting is in favour of the proposed change shall without delay pass a by-law in accordance with the prayer of the petition.

(8) Subject to subsection 4, where a by-law has been passed for reducing the number of councillors to two for each ward, the council, upon the petition of not less than 100 resident municipal electors, presented not later in the year than the first day of November, shall submit the question of repealing the by-law to a vote of the electors at the next ensuing annual election and if the voting is in favour of the repeal shall without delay pass a by-law in accordance with the prayer of the petition. 3-4 Geo. V. c. 43, s. 48.

Submission of question of repeal.

49. For the purposes of sections 46 to 48 the population shall be determined by the latest census of Canada. 3-4 Geo. V. c. 43, s. 49.

Population, how determined.

Villages and Townships.

50.—(1) The council of a village and the council of a township shall consist of a reeve, as many deputy reeves as the municipality is entitled to, and a sufficient number of councillors to make up with the deputy reeves four in all, and they shall all be elected by general vote.

Councils of villages and townships.

(2) The council of a township in unorganized territory shall consist of a reeve and four councillors. 3-4 Geo. V. c. 43, s. 50.

Towns, Villages and Townships.

51.—(1) A town, not being a separated town, and a village and a township in a county shall each be entitled where it has more than 1,000 and not more than 2,000 municipal electors to a first deputy reeve, or where it has more than 2,000 and not more than 3,000 municipal electors to a first deputy reeve and a second deputy reeve, and where it has more than 3,000 municipal electors to a first deputy reeve, a second deputy reeve and a third deputy reeve.

Deputy reeves in towns, villages, and townships.

(2) The number of municipal electors shall be determined by the last revised voters' list, but in counting the names the name of the same person shall not be counted more than once. 3-4 Geo. V. c. 43, s. 51.

Number of electors, how determined.

QUALIFICATION.

52.—(1) Subject to subsection 6, no person shall be qualified to be elected a member of the council of a local municipality unless he

Qualification of members of councils.

(a) Resides in or within two miles of the municipality;

- (b) Is a British subject;
- (c) Is a male of the full age of twenty-one years;
- (d) Is not disqualified under this or any other Act, and
- (e) In any municipality is at the time of the election in actual occupation of a freehold estate rated in his own name or in the name of his wife on the last revised assessment roll of the municipality for at least \$2,000, whether or not the same is encumbered, and of which he or she is the owner; or
- (f) Is or his wife is at the time of the election the owner or tenant of a freehold or leasehold or partly freehold and partly leasehold estate, legal or equitable, or partly legal and partly equitable, in land assessed in his or her name on the last revised assessment roll of the municipality, if not in unorganized territory, of at least the value according to such assessment roll over and above, in the case of an owner, all liens, charges and encumbrances thereon, of
 - i. In a village, if freehold, \$200; or if leasehold, \$400;
 - ii. In a township, if freehold, \$400; or if leasehold, \$800;
 - iii. In a town, if freehold, \$600; or if leasehold, \$1,200;
 - iv. In a city, if freehold, \$1,000; or if leasehold, \$2,000;Or if in unorganized territory,
 - v. In a township, (except at the first election), if freehold, \$100; or if leasehold, \$200;
 - vi. In a city or town, if freehold, \$400; and if leasehold, \$800.

When
alienation of
assessed
estate not to
disqualify.

(2) A person who would have had the qualification prescribed by subsection 1, if he or his wife had continued to be the owner or tenant of land in respect of which his or her name was entered on the last revised assessment roll down to and at the time of the election, if otherwise qualified, shall be qualified to be elected, notwithstanding that he or his wife has alienated the estate in the land for which he or she was assessed, or, if a leasehold estate, it has been determined by effluxion of time, surrender or otherwise between the date of the return of the assessment roll and the time of the election, if at the time of the election he is a resident of the municipality and he or his wife has at the time of the election an estate in other land of a sufficient assessed value, according

to the last revised assessment roll, to qualify him for election under subsection 1 if he or she had been assessed for it.

(3) Subsections 4 and 5 of section 56 shall apply to the rating qualifications prescribed by this section.

(4) Where territory has been annexed to an urban municipality, until an assessment roll for the municipality, including such territory, has been made and revised, it shall be sufficient for the purposes of this section if the assessment is upon the last revised assessment roll of the municipality in which the territory, before its annexation, was situate, and for a sufficient amount to qualify him for election to the council of that municipality.

Qualification when district annexed to urban municipality.

(5) In this section "leasehold" and "leasehold estate" shall mean a tenancy for one year or more, or a tenancy from year to year.

"Leasehold," meaning of.

(6) Where the inhabitants of a township or locality in unorganized territory have become incorporated as a township or a union of townships, the only qualification necessary at the first election shall be that the person is a male of the full age of twenty-one years, a British subject and a householder resident in the municipality.

Qualification in new township in unorganized territory.

(7) If there are not at least two persons qualified to be elected for each seat in the council, no qualification beyond that of a municipal elector shall be necessary. 3-4 Geo. V. c. 43, s. 52.

If not two persons qualified for each seat in the council.

DISQUALIFICATION.

53.—(1) The following shall not be eligible to be elected a member of a council or be entitled to sit or vote therein:

Persons disqualified from being members of a Council.

- (a) A judge of any court;
- (b) A gaoler or a keeper of a lock-up;
- (c) A sheriff, deputy sheriff or sheriff's bailiff;
- (d) A high bailiff or chief constable of a city or town;
- (e) An assessment commissioner, assessor, a collector of taxes, a treasurer, a clerk, or any other officer, employee or servant of the corporation of a municipality;
- (f) A clerk or bailiff of a division court;
- (g) A crown attorney or a clerk of the peace;
- (h) A registrar or a deputy registrar of deeds;
- (i) A master or a local master of titles;
- (j) A member of a public or separate school board or of a board of education, of a city, town or village, or a member of a high school board, unless he

has at least ten days before the day of nomination filed his resignation with the Secretary of the Board;

- (k) A person licensed to sell spirituous liquor by retail;
- (l) A license commissioner or an inspector of licenses;
- (m) A police magistrate;
- (n) A clerk of a county or district court;
- (o) A deputy clerk of the Crown or a local registrar;
- (p) A person having himself or by or with or through another an interest in any contract with the corporation or with any commission or person acting for the corporation or in any contract for the supply of goods or materials to a contractor for work for which the corporation pays or is liable directly or indirectly to pay, or which is subject to the control or supervision of the council or of an officer of the corporation, or who has an unsatisfied claim for such goods or materials;
- (q) A person who either himself or by or with or through another has any claim, action or proceeding against the corporation;
- (r) A person who, either himself or by or with or through another is counsel or solicitor in the prosecution of any claim, action or proceeding against the corporation or in opposing or defending any claim, action or proceeding by the corporation;
- (s) A person who at the time of the election is liable for any arrears of taxes to the corporation of the municipality;
- (t) A person against the land in respect of which he qualifies there are at the time of the election any arrears of taxes.

(2) Subsection 1 shall not apply to a person by reason only:

Shareholders in incorporated companies having dealings with corporation, lessees of corporation, and newspaper proprietors not disqualified.

- (a) Of his being a shareholder in an incorporated company having dealings or a contract with the corporation, or
- (b) Of his being a lessee of the corporation for a term of twenty-one years or upwards of any property of the corporation, or
- (c) That part of his property is exempt wholly or in part from taxation, whether such exemption is founded on an agreement with the corporation or on a by-law of the council, or

- (d) Of his being the proprietor of or otherwise interested in a newspaper or other periodical publication in which official advertisements or notices which appear in other newspapers or periodical publications are published by the council or for which the council is a subscriber or which is furnished to any department or officer of a corporation if the same are paid for at the usual rates, and he has not agreed with the corporation to do the whole or the principal part of its printing.
- (e) Of his having been appointed and paid for his services as commissioner, superintendent or overseer of any highway or of any work undertaken wholly or in part at the expense of the corporation.
- (f) Of his being a consumer or taker of anything supplied by the corporation or any commission under *The Public Utilities Act* or of his having entered into a contract with the corporation or commission for the supply of it to him. Rev. Stat. c. 204.

(3) A person being such a shareholder shall not vote on any question affecting the company or being such a lessee shall not vote on any question affecting his lease or his rights or liabilities thereunder, or being so exempt from taxation shall not vote on any question affecting the property so exempt, or being such a proprietor of or otherwise interested in a newspaper or other periodical publication shall not vote on any question affecting his dealings with the corporation. Shareholder, lessee or newspaper proprietor, etc., not to vote on any question affecting his dealings with corporation.

(4) The filing of the resignation mentioned in clause (j) of subsection 1 shall render vacant the seat of the member. Resignation when to vacate seat.
3-4 Geo. V. c. 43, s. 53.

54. If a member of a council in his own name or in that of another and alone or jointly with another enters into a contract with or makes a purchase from or a sale to the corporation, the contract, purchase or sale as against the corporation shall be void. Contracts by members with corporation to be void.
3-4 Geo. V. c. 43, s. 54.

EXEMPTIONS.

55. The following shall be exempt from being elected as members of a council and from being appointed to any municipal office: Persons exempt.

- (a) Persons of the age of sixty years and upwards;
- (b) Members and officers of the Senate, or of the House of Commons of Canada, or of the Assembly;
- (c) Coroners;
- (d) Clergymen and ministers of every denomination;

- (e) Members of the Law Society of Upper Canada, whether barristers or students;
- (f) Officers of Courts of Justice;
- (g) Physicians and surgeons;
- (h) Professors, masters and teachers, and the officers and servants of a university, college or school in Ontario;
- (i) Millers;
- (j) Officers and members of a fire brigade or of an authorized fire company. 3-4 Geo. V. c. 43, s. 55.

PART III.

MUNICIPAL ELECTIONS.

Who to be entered on Voters' List.

Qualifica-
tion to be
entered on
voters' list.
Rev. Stat.
c. 6.

56.—(1) Every person shall be entitled to be entered on the voters' list prepared under Part I. or II. of *The Ontario Voters' Lists Act*, who is:

- (a) A male, a widow or an unmarried woman;
- (b) Of the full age of twenty-one years;
- (c) A British subject by birth or naturalization;
- (d) Not disqualified under this Act or otherwise by law prohibited from voting; and
- (e) Rated, or entitled to be rated, or in the case of a male whose wife is or was entitled to be rated to the amount hereinafter mentioned on the last revised assessment roll of the local municipality for land held in his or her own right, or so rated or entitled to be so rated for income, or who is entered or was entitled to be entered on such roll as a farmer's son.

Amount of
rating neces-
sary.

(2) The rating for land shall be in respect of a freehold or leasehold, legal or equitable or partly of each to an amount not less than

- (a) In villages and townships, \$100;
- (b) In towns having a population not exceeding 3,000, \$200;
- (c) In towns having a population exceeding 3,000, \$300;
- (d) In cities, \$400.

(3) The rating for income shall be in respect of income Income. from a trade, office, calling or profession of not less than \$400 which has been received during the twelve months next preceding the final revision of the assessment roll or the twelve months next preceding the last day for making complaint to the Judge under *The Ontario Voters' Lists Act*. Rev. Stat. c. 6.

(4) If both the owner and the occupant are severally but Where owner and occupant severally rated. not jointly rated, each shall be deemed to be rated.

(5) Where land is owned or occupied jointly by two or Where land owned or occupied jointly. more persons who are rated at an amount sufficient, if equally divided between them, to give a qualification to all each shall be deemed to be rated within the meaning of this section, otherwise none of them shall be deemed to be so rated.

(6) A person not entitled under *The Assessment Act* to Farmers' sons. be entered on the last revised assessment roll as a farmer's son, shall be entitled to be entered on the voters' list if Rev. Stat. c. 195. he has the other qualifications of a farmer's son as prescribed by that Act and has resided on the farm of his father or mother for the twelve months next preceding the date of the final revision of the assessment roll or for the twelve months next preceding the last day for making complaint to the Rev. Stat. c. 6. judge under *The Ontario Voters' Lists Act*.

(7) Occasional or temporary absence from the farm for Occasional or temporary absence. a time or times not exceeding in the whole six of the twelve months shall not disentitle a farmer's son to be entered on the voters' list. 3-4 Geo. V. c. 43, s. 56.

Right to Vote.

57. Subject to sections 59, 60 and 61, every person whose Right to vote. name is entered on the proper voters' list shall be entitled to vote at a municipal election except that in the case of a tenant he shall not be entitled to vote unless he is a resident of the municipality at the date of and has resided therein for one month next before the election and, in the case of an income voter and of a farmer's son, he is a resident of the municipality at the date of the election. 3-4 Geo. V. c. 43, s. 57.

58. Except as to the disqualification arising from his not No question of qualification to be raised at election. Exception. residing in the municipality at the time of the election in the case of an income or farmer's son voter or from his not residing in the municipality for one month next before the election and at the time of the election in the case of a tenant, or from the non-payment of taxes in the case of a voter whose name appears on the defaulters' list, no question as to the qualification of any person whose name is entered on the proper list of voters shall be raised at an election. 3-4 Geo. V. c. 43, s. 58.

Persons in default for non-payment of taxes not to vote.

59.—(1) No person whose name appears on the defaulters' list provided for by section 95 shall be entitled to vote in respect of income in any municipality, or in respect of real property in a municipality the council of which has passed a by-law under paragraph 9 of section 399, unless at the time of tendering his vote he produces and leaves with the deputy returning officer a certificate from the treasurer, or the collector, showing that the taxes, in respect of which the default was made, have since been paid.

Certificate to be filed.

(2) The deputy-returning officer shall file the certificate and note the same on the defaulters' list. 3-4 Geo. V. c. 43, s. 59.

Clerk may give a casting vote only.

60. The Clerk of the municipality shall not be entitled to vote except to give a casting vote as provided by section 127. 3-4 Geo. V. c. 43, s. 60.

Persons employed by candidates for reward not to vote.

61.—(1) No person shall be entitled to vote who, at any time, before or during the election, has been employed as counsel, agent, solicitor or clerk or in any other capacity by a candidate or by any other person at or in reference to or for the purpose of forwarding the election, and who has received or expects to receive, either before, during or after the election, from any candidate or from any other person, for acting in such capacity, any money, fee, office, place or employment, or any promise, pledge or security therefor.

Exceptions.

(2) Subsection 1 shall not apply to a person who performs any official duty in connection with the election and who receives the fees therefor to which he is entitled. 3-4 Geo. V. c. 43, s. 61.

Where territory added to city, town or village, or a new city, town or village erected with added territory, and no voters' lists including such territory.

62. Where territory has been annexed to an urban municipality, or a town with additional territory erected into a city, or a village with additional territory erected into a town, or a new town or village erected, and an election takes place before a voters' list including the names of the persons entitled to vote in such territory, or for the new town or village, is certified by the Judge, all persons who would have been qualified as municipal electors if such addition had not been made or the new town or village erected shall be entitled to vote in the city, town or village at such election. 3-4 Geo. V. c. 43, s. 62.

NOMINATION MEETING.

Meeting for nomination of mayor, reeve, deputy-reeves, etc.

63. Subject to subsection 4 of section 64 and to section 73 a meeting of the electors shall take place for the nomination of candidates for mayor and controllers in cities and towns, and for reeve or reeve and deputy reeve or deputy reeves in towns, at the hall of the municipality annually on the last Monday in December, at ten o'clock in the forenoon. 3-4 Geo. V. c. 43, s. 63.

64.—(1) Subject to subsections 3 to 6, and to section 73, a meeting of the electors shall take place for the nomination of candidates for aldermen in cities and councillors in towns, to be elected by general vote, and for reeves, deputy reeves and councillors in villages and townships, annually at noon, on the last Monday in December, at the hall of the municipality, or at such place therein as may from time to time be fixed by by-law.

Meetings in cities, towns, etc., for nomination of aldermen, etc.

(2) Where the election of aldermen or councillors is by wards the meeting shall be held annually at noon on the last Monday in December at such places in each ward as may from time to time be fixed by by-law, but the council of a town divided into wards may provide that the meeting for the nomination of candidates for councillors for the wards shall be held at the same time and place as the nomination for mayor.

Place of nomination.

Nomination of councillors in towns.

(3) The council of a city may by the by-law fixing the places for the nomination of candidates for aldermen provide that the hour of nomination shall be half-past seven o'clock in the afternoon.

Hour for holding nominations in cities.

(4) The council of a town or village may by by-law provide that the meeting for the nomination of all candidates may be held at half-past seven o'clock in the afternoon.

In towns and villages.

(5) The council of a township may by by-law provide that the meeting for the nomination of all candidates shall be held at one o'clock in the afternoon.

In townships.

(6) Where a township adjoins an urban municipality, that municipality may be designated as the place of meeting for the nomination of all candidates. 3-4 Geo. V. c. 43, s. 64.

Where township adjoins urban municipality.

65. The nomination meeting shall be held on the day fixed for it by or under the authority of this Act, except where it is Christmas Day, and in that case the meeting shall be held on the preceding Friday. 3-4 Geo. V. c. 43, s. 65.

If nomination day falls on Christmas.

66. Where the incorporation of a new municipality takes effect on the 31st day of December as provided by section 31, the nomination and all proceedings incidental thereto and to the holding of the election on the 1st Monday of the January following may be had and taken as if the incorporation had taken effect. 3-4 Geo. V. c. 43, s. 66.

Nomination and polling in new municipality.

67. The returning officer shall give at least six days' notice of the nomination meeting. 3-4 Geo. V. c. 43, s. 67.

Notice of nomination meeting.

68.—(1) At all nomination meetings, the candidates for each office shall be proposed and seconded *seriatim*, and every nomination shall be in writing, shall state the name, residence and occupation of the candidate, and shall be signed by his proposer and seconder, both of whom shall be present,

Nomination and proceedings incidental thereto.

and filed with the returning officer within one hour from the time fixed for holding the meeting.

Non-compliance,
effect of.

(2) Failure to comply with the provisions of subsection 1 shall not invalidate the nomination if it is received and acted on by the returning officer without objection.

Where only
one candi-
date nomi-
nated for an
office.

(3) If no more candidates are nominated for an office than are to be elected, the returning officer, after the lapse of one hour from the time fixed for holding the meeting, shall declare such candidate duly elected.

In what
cases poll
to be held.

(4) If more candidates are nominated for an office than are to be elected, the returning officer shall adjourn the proceedings until the first Monday in January next thereafter, when, unless there is an election by reason of the resignation of any candidate or candidates nominated, as in the next succeeding section provided, polls shall be opened in each ward or polling subdivision at such place or places as have been fixed by by-law. 3-4 Geo. V. c. 43, s. 68.

Names of
candidates
to be posted
up.

69.—(1) The returning officer shall, on the day of the nomination, post up in the office of the clerk the names of the persons nominated for the respective offices.

Resignation
of person
nominated.

(2) At the nomination meeting or at any time before nine o'clock in the afternoon of the following day, or, if that day is a holiday, before noon of the succeeding day, any person nominated for one or more offices may resign, or may elect for which office he is to remain nominated; and in default he shall be deemed to be nominated for the office for which he was first nominated.

When
resigna-
tions to be
in writing.

(3) Where he resigns after the nomination meeting the resignation shall be in writing, signed by him and attested by a witness, and shall be delivered to the clerk within the time hereinbefore mentioned.

Candidates
to file
declaration
of qualifica-
tion.

(4) In an urban municipality every candidate for any municipal office shall on nomination day, or before nine o'clock in the afternoon of the following day, or if that day is a holiday before noon of the succeeding day, file in the office of the clerk a declaration, Form 2.

When
declaration
may be
made by
some one
for candi-
date.

(5) Where a candidate is unable on account of illness or absence from the municipality to make the declaration or to file it within the time prescribed by subsection 4, and he appears by the last revised assessment roll to be qualified to be elected, the declaration of any person who has and states in the declaration that he has knowledge of the facts, that the inability exists and the nature of it and that he has reason to believe and does believe that the candidate possesses the qualification prescribed for the office for which he has been nominated and that if elected he will accept the office, may be filed in lieu of the declaration of the candidate.

(6) If one or other of such declarations is not filed within the time mentioned in subsection 4, the candidate in default shall be deemed to have resigned, and his name shall be removed from the list of candidates and shall not be printed on the ballot paper.

Effect of failure to make declaration.

(7) If by reason of resignations the number of candidates remaining for any office does not exceed the number to be elected the returning officer, whether the event happens on or after nomination day, shall declare the remaining candidate or candidates duly elected.

Election by acclamation when other candidates retire.

(8) On the day following the nomination day, the returning officer for each ward shall certify to the clerk the result of the meeting. 3-4 Geo. V. c. 43, s. 69.

Result of nomination meeting.

70.—(1) Where the candidates, or any of them, retire, and by reason of such retirement or where from any other cause the requisite number of persons is not elected, the members elected, if they equal or exceed one-half of the council when complete, or a majority of such members, shall order a new election to be held to fill the vacancies.

Non-election of full council by reason of retirement of candidates.

(2) Where less than half the members of the council are elected the clerk shall cause a new election to be held; and until such election is held, and the council is elected, the council of the preceding year shall continue in office.

Retirement by a majority of council.

(3) The new election shall be held as soon as practicable. 3-4 Geo. V. c. 43, s. 70.

New election, when to be held.

71. Except in the case of the first election provided for by sections 24 and 27 and subject to section 73 the electors of every local municipality shall elect annually on the first Monday in January, although it is a holiday, the members of council, the water commissioners, and the sewerage commissioners who are to be elected, except such as have been elected at the nomination. 3-4 Geo. V. c. 43, s. 71.

Elections to be held annually.

72. The members of a council shall hold office until their successors are elected and the new council is organized. 3-4 Geo. V. c. 43, s. 72 (1).

Term of office of members, etc.

73. The council of a city having a population of not less than 75,000 may, by by-law passed not later in the year than the 15th day of November, provide that the meeting of electors for the nomination of candidates for Mayor, Controllers, Aldermen and the Board of Education shall be held on the 23rd day of December, except where that day is a Sunday, and in that case on the following day, and that the polling shall take place on the 1st day of January next thereafter, except where that day is a Sunday, and in that case on the following day, and the by-law shall remain in force from year to year until repealed. 3-4 Geo. V. c. 43, s. 73.

By-laws for holding nominations on 23rd December and elections on New Year's Day, in certain cities.

Two years' term for councils may be adopted.

74. The council of a local municipality may by by-law passed with the assent of the municipal electors extend the term of office of the members of the council to be thereafter elected to two years, and may with the like assent repeal such by-law. 3-4 Geo. V. c. 43, s. 74.

Election to be held in municipality.

75. Subject to subsection 6 of section 64 the election shall be held in the municipality. 3-4 Geo. V. c. 43, s. 75.

Election not to be held in tavern.

76. An election shall not be held in a tavern or in a house of public entertainment licensed to sell spirituous or fermented liquors. 3-4 Geo. V. c. 43, s. 76.

Appointment of places for nomination and polling, deputy-returning officers, etc.

77.—(1) The council of every local municipality in which the election is by wards or polling subdivisions, shall from time to time appoint:

- (a) the places for holding the nominations for each ward;
- (b) a returning officer to hold the nominations for each ward;
- (c) the places at which polls shall be opened if a poll is required;
- (d) a deputy returning officer and a poll clerk for each polling subdivision.

Election officers how appointed in cities over 100,000.

(2) In a city having a population of not less than 100,000 the returning officers, deputy returning officers, and poll clerks shall be appointed on the recommendation of the clerk, and such appointments shall be made at least one month before polling day, and as far as practicable the deputy returning officers and poll clerks shall be appointed for polling places in the subdivisions in which they reside.

Poll clerk refusing to act, etc.

(3) If a poll clerk signifies to the returning officer in writing that he will not act, the returning officer shall appoint another person to act in his place.

Appointment of poll clerk by D.R.O.

(4) If a poll clerk does not attend at the opening of the poll the deputy returning officer shall appoint another person to act in his place.

Clerk to be returning officer for whole municipality.

(5) The clerk shall be the returning officer for the whole municipality; and if a poll is required, the deputy-returning officers shall make to him the returns for their respective wards or polling subdivisions. 3-4 Geo. V. c. 43, s. 77.

Returning and deputy officer where election not by polling subdivisions. Polling place.

78.—(1) In a local municipality which is not divided into polling subdivisions, the clerk shall be the returning officer for the nomination of candidates.

(2) The council shall from time to time appoint the place at which the poll shall be opened if a poll is required. 3-4 Geo. V. c. 43, s. 78.

79.—(1) Where a by-law to appoint the place for holding any meeting required to be held for the nomination of candidates is necessary and the council fails to pass it the meeting shall be held at the place at which the nomination for the next preceding election was held. Place for nomination and polling where Council fails to fix places.

(2) Where the council fails to appoint all or any of the places at which a poll is to be opened if a poll is required, as to such of them as are not appointed, the polls shall be opened at the place or places at which the polling took place at the next preceding election. 3-4 Geo. V. c. 43, s. 79.

80.—(1) Where the returning officer for any ward notifies the clerk that he is unable or that he refuses to act or does not attend at the time and place appointed by the clerk to receive his instructions and nomination papers, or where a deputy returning officer does not attend at the time and place at which he is required by the clerk to attend to receive his ballot box, voters' lists, and other election papers, the clerk shall appoint another person to act in his place. Refusal or neglect of returning officer or deputy returning officer to perform his duties.

(2) If at the time and place appointed for holding a nomination the returning officer does not attend to hold the nomination within fifteen minutes after the time appointed or if no returning officer has been appointed, the electors present at the place for holding the nomination may choose from amongst themselves a returning officer to hold the nomination. When electors may choose returning officer.

(3) If at the time and place appointed for holding the poll the deputy returning officer does not attend within one hour after the time appointed, the clerk shall appoint another person to act in his place and shall furnish him with a ballot box, voters' lists and other election papers. Case of deputy returning officer not attending at poll.

(4) In a city having a population of not less than 100,000 a deputy returning officer shall not be appointed unless a poll clerk has not been appointed or if appointed is not present, but the poll clerk shall act as deputy returning officer and he shall appoint some other person to be poll clerk. When electors not to choose deputy.

(5) If, during the polling, the returning officer or the deputy returning officer at a polling place becomes unable, through illness or other cause, to perform his duties, the poll clerk shall act in his place and shall perform all the duties of a returning officer or deputy returning officer, and may appoint some other person to act as poll clerk. 3-4 Geo. V. c. 43, s. 80. Where returning officer or deputy is unable to perform his duties.

81.—(1) A returning officer and a deputy returning officer from the time he takes the oath of office until the day after the close of the election or of the voting on a by-law shall be a conservator of the peace and shall have all the powers of a Justice of the Peace. Returning officers and deputy returning officers to be conservators of the peace.

Arrest of
person
disturbing
peace.

(2) A returning officer, a deputy returning officer or a Justice of the Peace may arrest or by a verbal order cause to be arrested and placed in the custody of a constable or of any other person a person who disturbs the peace and good order and may cause such person to be imprisoned under an order signed by him until an hour not later than the closing of the nomination, polling or voting as the case may be, and all constables and persons present when required shall assist the returning officer, deputy returning officer or Justice of the Peace in the performance of his duties under this subsection. 3-4 Geo. V. c. 43, s. 81.

Special con-
stables may
be sworn in.

82. A returning officer, a deputy returning officer, or a Justice of the Peace may appoint and swear in as many special constables to assist in the preservation of the peace and order as he may deem necessary; and any person liable to serve as constable, and required by a returning officer, a deputy returning officer, or a justice, to be sworn in as a special constable, if he refuses to be sworn in or to serve, shall incur a penalty of \$20. 3-4 Geo. V. c. 43, s. 82.

Ballot Boxes.

Ballot boxes
to be fur-
nished.

83.—(1) Where a poll is required, the clerk shall procure as many ballot boxes as there are polling subdivisions.

How made.

(2) The ballot boxes shall be made of durable material, provided with lock and key, and so constructed that the ballot papers can be deposited therein and cannot be withdrawn without unlocking the box.

Delivery of
to deputy-
returning
officers.

(3) Two days at least before polling day the clerk shall deliver a ballot box to every deputy returning officer.

Clerk to
preserve
boxes for
future
elections.

(4) The ballot boxes, when returned to the clerk after the election, shall be preserved by him for use at future elections; and he shall have ready for use, at all times, as many ballot boxes as there are polling subdivisions.

Penalty for
failure to
furnish
boxes.

(5) If the clerk fails to provide the ballot boxes he shall incur a penalty of \$100 in respect of every ballot box which he fails to provide.

Deputy
returning
officers to
procure
boxes when
not supplied.

(6) A deputy returning officer who has not been provided with a ballot box within the time prescribed shall forthwith procure one to be made, and he may make a requisition upon the treasurer for payment of the cost of it, and the treasurer shall pay the same to the deputy returning officer. 3-4 Geo. V. c. 43, s. 83.

Ballot Papers.

Ballot
papers to be
printed.

84. Where a poll is required, the clerk shall forthwith cause to be printed a sufficient number of ballot papers for the purposes of the election. 3-4 Geo. V. c. 43, s. 84.

85.—(1) In cities and towns in which the aldermen or councillors are elected by wards, there shall be prepared one set of ballot papers for all the polling subdivisions containing the names of the candidates for mayor, another set for all the polling subdivisions containing the names of the candidates for reeve or reeve and deputy reeves, and another set for each ward containing the names of the candidates for aldermen or councillors for the ward. Ballot papers where election is by wards.

(2) In cities and towns where the aldermen or councillors are elected by general vote, there shall be prepared for all the polling subdivisions one set of ballot papers containing the names of the candidates for mayor or mayor and reeve or mayor, reeve and deputy reeves, and another set containing the names of the candidates for aldermen or councillors. Ballot papers where aldermen or councillors elected by general vote.

(3) In villages and townships there shall be prepared one set of ballot papers containing the names of the candidates for reeve or reeve and deputy reeves and for councillors. Ballot papers for townships and villages.

(4) There shall also be separate sets of ballot papers for controllers and public utility commissioners. 3-4 Geo. V. c. 43, s. 85. Ballot papers for controllers, etc.

86. The ballot papers shall be according to Forms 3, 4, or 5, and shall contain the names of the candidates arranged alphabetically in the order of their surnames, or if there are two or more candidates for the same office with the same surname, in the order of their Christian names. 3-4 Geo. V. c. 43, s. 86. Form of ballot papers.

Polling Places.

87. Before opening the poll, the clerk shall deliver to every deputy returning officer the ballot papers for use in the polling subdivision for which he has been appointed, and shall furnish him with the materials necessary to enable voters to mark their ballot papers, and such materials shall be kept at the polling place by the deputy returning officer for the use of voters. 3-4 Geo. V. c. 43, s. 87. Clerk to furnish deputy returning officers with ballot papers, etc.

88. Every polling place shall be furnished with a compartment in which the voters can mark their ballot papers screened from observation, and if it is not provided by the corporation the deputy returning officer shall furnish it, and the cost of it shall be repaid to him as provided by subsection 6 of section 83. 3-4 Geo. V. c. 43, s. 88. Compartment for making ballots.

Directions to Voters.

89. The clerk shall cause to be printed in conspicuous type a sufficient number of the directions for the guidance of voters, Form 6, for the purposes of the election, and shall deliver to every deputy returning officer as many of the printed directions, but not less than five, as the clerk may deem sufficient. 3-4 Geo. V. c. 43, s. 89. Directions to voters to be printed.

Deputy
returning
officers to
placard the
directions.

90. Every deputy returning officer, before opening the poll, or immediately after he has received the printed directions from the clerk, if the same were not received before opening the poll, shall cause them to be placarded outside the polling place, and in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. 3-4 Geo. V. c. 43, s. 90.

Voters' Lists, Poll Books.

Proper
voters' list to
be used at
an election.
Rev. Stat.
c. 6.

91. The proper list of voters to be used at an election shall be the first and second parts of the last voters' list certified by the Judge under *The Ontario Voters' Lists Act*, with the supplementary list, if any, under section 93 or the list provided for by section 94. 3-4 Geo. V. c. 43, s. 91.

For first
election in
new muni-
cipality.

92. For the first election in a new municipality for which there is no assessment roll, the clerk, instead of a voters' list, shall provide every deputy returning officer with a poll book, Form 7, and the deputy returning officer or the poll clerk shall enter in it in the proper column the name of every person who tenders his vote, and, at the request of any candidate or voter, shall note opposite the name of such person the property in respect of which he claims to be entitled to vote. 3-4 Geo. V. c. 43, s. 92.

Voters' lists
on forma-
tion of new
corporation,
etc.

93.—(1) Where a district as defined by section 11 has been annexed to an urban municipality, or a town with additional territory erected into a city, or a village with additional territory into a town, or a new town or village is erected, and an election takes place before a voters' list including the names of the persons entitled to vote in such district, territory or for the new town or village is certified by the Judge, the clerk of the municipality to which the same was added, and in the case of a new town or village the returning officer shall prepare from the last certified voters' list of the municipality from which such district, territory, town or village was or became detached, a supplementary list of voters containing the names of and the other particulars relating to the persons who would have been entitled to vote in such district or territory if it had not been so detached.

Clerk's
duties as to
supplemen-
tary lists.

(2) The supplementary list shall be signed by the clerk and attested by his declaration, and he shall deliver to every deputy returning officer a copy of so much of such list as relates to his polling subdivision. 3-4 Geo. V. c. 43, s. 93.

Voters' list;
when clerk
to prepare.

94. In a municipality for which there is an assessment roll, but for which there is no voters' list certified by the Judge, the clerk shall, before the poll is opened, prepare and deliver to the deputy returning officer for every polling subdivision, a list signed by him and attested by his declaration, contain-

ing the names, arranged alphabetically, of all persons appearing by the then last revised assessment roll to be entitled to vote in that polling subdivision. 3-4 Geo. V. c. 43, s. 94.

List of Defaulters in Payment of Taxes.

95.—(1) On or before the last Monday in December the treasurer of each local municipality, if the collector's roll has been returned to him, or the collector, if the roll has not been so returned, shall prepare and verify by his declaration and shall deliver to the clerk an alphabetical list of—

Preparation of list of defaulters.

(a) all persons entered on the first and second parts of the voters' list in respect of income only, who have not paid the taxes on such income on or before the 14th day of December next preceding the election; and,

(b) in municipalities the councils of which have passed by-laws under paragraph 9 of section 399, all persons entered on the first and second parts of the voters' list, who have not paid all municipal taxes due by them on or before the 14th day of December next preceding the election.

(2) Where a municipality is divided into polling subdivisions, such a defaulters' list shall be made for each polling subdivision.

List to be made for each polling subdivisions.

(3) The person who prepares the defaulters' list shall furnish to all persons applying for the same, certified copies of it and of the declaration, in the same manner as and for the same compensation for which copies of the voters' list are to be furnished. 3-4 Geo. V. c. 43, s. 95.

Certified copies to be furnished.

96.—(1) The clerk, before the poll is opened, shall at a time and place appointed by him deliver to the deputy returning officer for every polling subdivision a list, either printed or written, or partly printed and partly written, certified to be a correct list of voters for the polling subdivision, together with a blank poll book, Form 7, and also a copy of the proper defaulters' list prepared under section 95 for the polling subdivision.

Delivery of copies of voters' list, poll book and defaulters' list to deputy returning officers.

(2) The list of voters may be prepared by the clerk or may be procured from the Clerk of the Peace; and in the latter case the Clerk of the Peace shall be entitled to six cents for every ten voters whose names are on the list. 3-4 Geo. V. c. 43, s. 96.

Copies may be prepared by clerk of municipality or procured from Clerk of Peace.

Certificates as to the Assessment Roll.

97.—(1) The clerk, before the poll is opened, shall deliver to every deputy returning officer a certificate, Form 8, of

Clerk to give certificate of dates of final revision of assessment roll, etc.

(a) the date of the final revision of the assessment roll, and

(b) the last day for making complaints to the judge with respect to the voters' list to be used at the election.

Fee for certificate.

(2) The clerk shall also give to any person applying for it a like certificate upon payment of twenty-five cents.

Penalty for neglect.

(3) For every contravention of subsection 2 the clerk shall incur a penalty of \$200. 3-4 Geo. V. c. 43, s. 97.

In Municipalities without Polling Subdivisions.

In municipalities not divided into polling subdivisions, clerk to perform duties of deputy returning officers.

98. In municipalities not divided into polling subdivisions, the clerk shall perform the duties which in other cases are performed by deputy returning officers, and shall provide himself with the necessary ballot papers, the materials for marking ballot papers, the printed directions for the guidance of voters, copies of the voters' list, poll book and defaulters' list, and a certificate of the date of the final revision of the assessment roll, and the last day for making complaints to the judge with respect to the voters' list; and he shall perform the like duties with respect to the whole municipality as are imposed upon a deputy returning officer for a polling subdivision. 3-4 Geo. V. c. 43, s. 98.

Where and how often electors may vote.

Number of votes which may be given by each elector.

99.—(1) An elector shall be entitled to vote,

(a) once only for mayor, controller, reeve, first deputy reeve, second deputy reeve, and third deputy reeve,

(b) where the election is by general vote, once only for as many candidates for any office as there are offices to be filled and once only for each of them.

Where election by general vote.

(2) Where the election is by general vote and an elector is qualified to vote in more than one ward or polling subdivision he shall vote only in that in which he resides if qualified to vote there, or if not qualified to vote there or if he is not a resident of the municipality, he may elect at which of such wards or polling subdivisions he will vote and shall vote there only.

Where aldermen, etc., elected by wards.

(3) Where the aldermen or councillors are elected by wards an elector if qualified to vote therein may vote in each ward for as many candidates as there are offices to be filled and once only for each of them. 3-4 Geo. V. c. 43, s. 99.

100.—(1) The clerk, at the request of an elector, who has been appointed deputy returning officer, poll clerk, or agent of a candidate, for any polling place other than the one at which he is entitled to vote, shall give to such elector a certificate that he is entitled to vote at the polling place where he is to be stationed during polling day; and the certificate shall state the property or other qualification in respect of which he is entitled to vote.

Certificate to entitle deputy returning officers, poll clerks, and agents to vote where stationed.

(2) On the production of the certificate such elector shall have the right to vote at the polling place at which he is stationed instead of at the polling place at which he would otherwise be entitled to vote; and the deputy returning officer shall attach the certificate to the voters' list.

Right to vote on production of certificate.

(3) The certificate shall not entitle the elector to vote at such polling place unless he has been actually engaged as deputy returning officer, poll clerk, or agent during polling day, or to vote for aldermen in cities, or for councillors in municipalities divided into wards, except in the ward where he would otherwise be entitled to vote.

Certificate only to entitle officials who act.

(4) If a deputy returning officer votes at the polling place for which he has been appointed, the poll clerk, or in his absence any elector entitled to be present, may administer to the deputy returning officer the oath required by law to be taken by voters. 3-4 Geo. V. c. 43, s. 100.

Who to administer oath.

THE POLL.

101.—(1) The poll shall be opened at every polling place at nine o'clock in the forenoon and shall be kept open until five o'clock in the afternoon of the same day.

Time for opening and closing poll.

(2) The council of a city may by by-law passed before the 15th day of November in any year extend the time for keeping open the poll until seven o'clock in the afternoon.

By-law for extension of time.

(3) The votes shall be given by ballot. 3-4 Geo. V. c. 43, s. 101.

Vote by ballot.

102. The deputy returning officer shall, immediately before opening the poll, show the ballot box to such persons as are present in the polling place, so that they may see if it is empty, and he shall then lock the box and place his seal upon it in such a manner as to prevent its being opened without breaking the seal, and he shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed. 3-4 Geo. V. c. 43, s. 102.

Deputy returning officer to show box empty to persons present and then lock and seal it.

103.—(1) Where a person tenders his vote, the deputy returning officer shall proceed as follows:

Proceedings by deputy returning officer on tender of vote.

(a) except where there is no voters' list he shall ascertain that the name of such person or a name ap-

Name.

parently intended for it is entered on the voters' list for the polling subdivision;

Recording.

- (b) he shall record, or cause to be recorded by the poll clerk, in the proper columns of the poll book the name, qualification, residence and occupation of such person;

Objection.

- (c) where the vote is objected to by any candidate or his agent, the deputy returning officer shall enter or cause to be entered the objection in the poll book, by writing opposite the name of such person in the proper column the words "*Objected to*," and the name of the candidate by or on behalf of whom the objection was made;

Oath.

- (d) if such person takes the prescribed oath, the deputy returning officer shall enter or cause to be entered opposite such person's name, in the proper column of the poll book the word "*Sworn*," or "*Affirmed*," according to the fact;

Refusal to take the oath.

- (e) where such person has been required to take the oath and refuses to do so, the deputy returning officer shall enter or cause to be entered opposite the name of such person, in the proper column of the poll book, the words, "*Refused to be Sworn*," or "*Refused to Affirm*," according to the fact;

Deputy returning officer to initial ballot paper and mark voters' list.

- (f) after the proper entries have been made in the poll book the deputy returning officer shall place or cause to be placed a check or mark opposite the name of the voter in the voters' list to indicate that he has voted, and shall then put his initials on the back of the ballot paper;

Delivery of to voter.

- (g) the ballot paper shall then be delivered to such person;

Deputy returning officer to explain mode of voting.

- (h) the deputy returning officer may, and upon request shall, either personally or through the poll clerk, explain to the voter, as concisely as possible, the mode of voting.

Penalty.

- (2) The vote of a person who has refused to take the oath shall not be received, and if the deputy returning officer receives such vote, or causes it to be received, he shall incur a penalty of \$200. 3-4 Geo. V. c. 43, s. 103.

Oath, etc., of person claiming to vote.

104.—(1) The only oath to be required of a person claiming to vote shall be according to Form 9.

Voter may select any form of oath.

(2) The voter shall be entitled to select any one of the forms of oath, whatever may be the description either in the voters' list or assessment roll of the qualification or character in which he is entered upon it.

(3) The oath may be administered by the returning officer or deputy returning officer if he thinks fit, and shall be administered at the request of any candidate or his agent, and no inquiry shall be made of a voter, except with respect to the matters required to be stated in the oath or to ascertain if he is the person intended to be designated on the voters' list, or the assessment roll, as the case may be. 3-4 Geo. V. c. 43, s. 104.

When and how oaths are to be administered.

105. The deputy returning officer or the poll clerk shall place his initials in the appropriate column of the poll book opposite the name of every person who has voted for a candidate for the office named in that column. 3-4 Geo. V. c. 43, s. 105.

Deputy returning officer to initial names of persons voting.

106.—(1) Upon receiving the ballot paper the person receiving it shall—

Marking ballot paper.

(a) forthwith proceed into the compartment provided for the purpose, and shall then and there mark his ballot paper by placing a cross, on the right hand side, opposite the name of a candidate for whom he desires to vote, or at any other place within the division which contains the name of such candidate;

(b) then fold the ballot paper so as to conceal the names of the candidates, and the marks upon the face of it, and to expose the initials of the deputy returning officer;

(c) then leave the compartment without delay, and without showing the face of the ballot paper to any one, or so displaying it as to make known how he has marked it; and

(d) then deliver the ballot paper so folded to the deputy returning officer.

(2) The deputy returning officer, without unfolding the ballot paper, or in any way disclosing the names of the candidates, or the marks made by the voter, shall verify his own initials, and at once deposit the ballot paper in the ballot box in the presence of all persons entitled to be present and then present in the polling place; and the voter shall forthwith leave the polling place. 3-4 Geo. V. c. 43, s. 106.

Duties of D.R.O. on receipt of ballot.

107. While a voter is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment, or to be in a position from which he can see how the voter marks his ballot paper. 3-4 Geo. V. c. 43, s. 107.

Exclusion from balloting compartment.

108. A person who has received a ballot paper shall not take, and the deputy returning officer may prevent him from taking, it out of the polling place and if he leaves the polling

Voter not to take his ballot paper from polling place.

place without delivering it to the deputy returning officer in the prescribed manner or returns the ballot paper declining to vote he shall thereby forfeit his right to vote and the deputy returning officer shall make an entry in the poll book, in the column for "*Remarks*," to the effect that such person received a ballot paper, but took it out of the polling place, or returned it, declining to vote, as the case may be and in the latter case the deputy returning officer shall immediately write the word "*Declined*" upon the ballot paper and shall preserve it. 3-4 Geo. V. c. 43, s. 108.

Proceedings
in case of
incapacity to
mark ballot
paper.

109.—(1) The deputy returning officer on the application of a voter who is incapacitated by blindness or other physical cause from marking his ballot paper, or who makes a declaration, Form 10, that he is unable to read, or where the voting is on a Saturday that he is of the Jewish persuasion and objects on religious grounds to mark his ballot paper in the manner prescribed by section 106, the deputy returning officer shall—

(a) in the presence of the poll clerk and the agents of the candidates, cause the vote of such person to be marked on the ballot paper in the manner directed by him, and shall place the ballot paper in the ballot box.

(b) make an entry opposite the name of the voter in the proper column of the poll book, that his vote was marked in pursuance of this section, and of the reason why it was so marked.

Oral declaration.

(2) Where the voter objects on religious grounds to mark his ballot paper, the declaration may be made orally. 3-4 Geo. V. c. 43, s. 109.

Proceedings
in case
ballot paper
cannot be
used.

110. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer shall be entitled to obtain another ballot paper, and the deputy returning officer shall immediately write the word "*Cancelled*" upon the first mentioned ballot paper, and preserve it. 3-4 Geo. V. c. 43, s. 110.

What shall
be deemed
a tender of
a vote and
a voting.

111. A person who applies for a ballot paper shall be deemed to have tendered his vote; and a person whose ballot paper has been deposited in the ballot box, or who has delivered it to the Deputy Returning Officer or Poll Clerk, for the purpose of having it deposited in the ballot box, shall be deemed to have voted. 3-4 Geo. V. c. 43, s. 111.

Who may be
in polling
place.

112. The deputy returning officer, the poll clerk, the constable or constables, the candidates and their agents, and no others, shall be permitted to remain in the polling place during the time the poll is open or at the counting of the votes. 3-4 Geo. V. c. 43, s. 112.

113. In cities in which the aldermen are elected by general vote a candidate shall be entitled to one agent only, and except in such cities a candidate in any municipality shall be entitled to two agents. 3-4 Geo. V. c. 43, s. 113. Number of agents.

114.—(1) No person on the day of the polling shall use or deliver to any other person any card, ticket, leaflet, book, circular or writing soliciting votes for or against any candidate, or by-law, or for an affirmative or negative answer to any question, or having upon it the name of any candidate. Use or delivery of election cards, etc.

(2) Every person who contravenes the provisions of sub-section 1 shall incur a penalty not exceeding \$20. 3-4 Geo. V. c. 43, s. 114. Penalty.

Proceedings after the Close of the Poll.

115. Immediately after the close of the poll, the deputy returning officer shall first place all the cancelled and declined ballot papers in separate packets and seal them up, and shall then count the number of voters whose names appear by the poll book to have voted, and cause a certificate, in the following form:—"I certify that the number of voters who voted at the election in this polling place is (stating the number in words) and that _____ was the last person who voted at this polling place," to be entered in the poll book on the line immediately below the name of the voter who voted last, and such certificate shall be signed by the deputy returning officer, the poll clerk, and any candidate or agent present who desires to sign it; then, in their presence and in full view he shall open the ballot box and count the number of votes for each candidate, giving full opportunity to those present to examine each ballot paper. 3-4 Geo. V. c. 43, s. 115. Counting the votes.

116. In counting the votes the deputy returning officer shall reject all ballot papers— What votes to be rejected.

- (a) which have not been supplied by him; or
- (b) by which votes have been given for more candidates than are to be elected; or,
- (c) upon which there is any writing or mark by which the voter can be identified, or which has been so torn, defaced or otherwise dealt with by the voter that he can thereby be identified;

but no word, letter or mark written or made or omitted to be written or made by the deputy returning officer on a ballot paper shall avoid it or warrant its rejection. 3-4 Geo. V. c. 43, s. 116.

117.—(1) The deputy returning officer shall make a note of every objection taken to a ballot paper, by a candidate or Objections to be noted and decided.

his agent, and shall decide the objection subject to review on recount or in a proceeding questioning the validity of the election.

Numbering objections.

(2) Each objection shall be numbered, and a corresponding number shall be placed on the back of the ballot paper and initialed by the deputy returning officer. 3-4 Geo. V. c. 43, s. 117.

Account to be kept of ballot papers.

118.—(1) All the ballot papers except those rejected shall be counted, shall be put into a packet, and an account shall be kept of the number of ballots cast for each candidate, and of the number of rejected ballot papers, and the rejected and unused ballot papers shall be put into separate packets.

Each packet to be endorsed and sealed.

(2) Every packet shall be endorsed so as to indicate its contents, and shall be sealed by the deputy returning officer, and any candidate or agent present may write his name on the packet and may affix to it his seal. 3-4 Geo. V. c. 43, s. 118.

Statement of result to be made by deputy returning officer.

119.—(1) The deputy returning officer shall make out a statement in duplicate of—

- (a) the number of ballot papers received from the clerk;
- (b) the number of votes given for each candidate and the rejected ballot papers;
- (c) the used ballot papers which have not been objected to and have been counted;
- (d) the ballot papers which have been objected to, but which have been counted by the deputy returning officer;
- (e) the rejected ballot papers;
- (f) the cancelled ballot papers;
- (g) the declined ballot papers;
- (h) the unused ballot papers;
- (i) the number of voters whose ballot papers have been marked by the deputy returning officer under section 109.

Disposal of statement.

(2) One statement shall be attached to the poll book, and the other shall be enclosed in a special packet and delivered to the clerk.

Signing of statement.

(3) The statement shall be signed by the deputy returning officer and the poll clerk and such of the candidates or their agents as are present and desire to sign it.

Certificate of result of poll.

(4) The deputy returning officer shall deliver to such of the candidates or their agents as are present, if requested to

do so, a certificate of the number of ballot papers counted for each candidate, and of the rejected ballot papers. 3-4 Geo. V. c. 43, s. 119.

120. The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe an oath similar to that required by subsection 3 of section 122, to be taken by the deputy returning officer. 3-4 Geo. V. c. 43, s. 120.

Oath of
poll clerk.

121. The poll book, the voters' list, the packets containing the ballot papers, and all other documents which served at the election, except the duplicate statement shall then be placed in the ballot box. 3-4 Geo. V. c. 43, s. 121.

Poll book,
voters' list
and packets
to be put
in ballot box.

122.—(1) The deputy returning officer shall then immediately lock and seal the box, and any candidate or agent present may also affix to it his seal and the deputy returning officer shall then forthwith deliver it personally to the clerk, or if he is unable to do so owing to illness or other imperative cause, he shall deliver it to the poll clerk, or where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering it, and shall on it or on a ticket attached to it write the name of the person to whom the ballot box has been delivered, and shall take a receipt for it, and the poll clerk or person so chosen shall forthwith deliver the ballot box personally to the clerk and shall take and subscribe before him, the oath, Form 12.

Delivery of
ballot box to
clerk.

(2) In cities and towns, the deputy returning officer, or in case of his inability, as mentioned in subsection 1, the poll clerk or the person chosen, shall proceed directly from the polling place to the office of the clerk with the ballot box, and there personally on the same day, as soon as possible after leaving the polling place, deliver it to the clerk, and the poll clerk or the person chosen shall take and subscribe before him the oath, Form 12, and the clerk shall remain in his office on the evening of the polling day until all the ballot boxes have been returned to him.

Return of
ballot boxes,
etc., in cities
and towns.

(3) Forthwith thereafter the deputy returning officer shall take and subscribe the oath, Form 13, and shall personally deliver it or transmit it by registered post to the clerk. 3-4 Geo. V. c. 43, s. 122.

Oath of
D.R.O.

123. The clerk, upon the receipt of a ballot box, shall take every precaution for its safe keeping and for preventing any other person from having access to it, and shall immediately on the receipt of it seal it with his own seal in such a way that it cannot be opened without his seal being broken, and that any other seals affixed to it are not effaced or covered. 3-4 Geo. V. c. 43, s. 123.

Duties of
clerk as to
ballot box.

D.R.O. not to take ballot box to his home.

124. A deputy returning officer in a city or town shall not under any circumstances take, or allow to be taken, the ballot box to his home, house, office or place of business, or to any house or place except the office of the clerk. 3-4 Geo. V. c. 43, s. 124.

Return by D.R.O. when election interrupted.

125. Where the holding of the election has been interrupted, as mentioned in section 128, the deputy returning officer shall delay making his return to the clerk until the polling has taken place. 3-4 Geo. V. c. 43, s. 125.

Clerk to cast up votes and declare what candidates elected.

126. The clerk, after he has received the ballot papers and statements of the number of votes given at each polling place, without opening any of the sealed packets of ballot papers, shall cast up from the statements the number of votes for each candidate; and at the town hall, or if there is no town hall, at some other public place, at four o'clock in the afternoon in the case of a city having a population of not less than 100,000, and at noon in the case of other municipalities on the day following the return of the ballot papers and statements, shall publicly declare to be elected the candidate or candidates having the highest number of votes; and he shall also put up in some conspicuous place a statement under his hand showing the number of votes for each candidate. 3-4 Geo. V. c. 43, s. 126.

In case of a tie clerk to have a casting vote.

127. If, upon the casting up of the votes or upon a recount, two or more candidates have an equal number of votes, the clerk, or other person appointed by by-law to discharge the duties of clerk, whether otherwise qualified or not, shall, at the time he declares the result of the poll, or after receiving the certificate of the result of the recount, as the case may be, give a vote for one or more of such candidates, so as to decide the election. 3-4 Geo. V. c. 43, s. 127.

Case of Election not held at Proper Time, etc.

Election not commenced, or interrupted by reason of riot, etc., to be resumed.

128. If, by reason of a riot or other emergency, an election, or the voting at a polling place, is not commenced on the proper day, or is interrupted after being commenced and before the lawful closing thereof, the returning officer, or deputy returning officer, as the case may be, shall hold or resume the election on the following day at the hour of nine o'clock in the forenoon, and continue the same from day to day until a fair opportunity for nominating candidates has been given or, in the case of polling, until the poll has been opened without interruption and with free access to voters for eight hours in all. 3-4 Geo. V. c. 43, s. 128.

[As to postponement of an election on account of an epidemic or contagious disease, see *The Public Health Act. Rev. Stat. c. 218, s. 115.*]

RECOUNT.

129.—(1) If within fourteen days after the declaration by the clerk of the result of the election, upon the application of a candidate or voter it is made to appear by affidavit to a Judge of the county or district court of the county or district in which the municipality is situate, that a deputy returning officer, in counting the votes has improperly counted or rejected any ballot paper, or made an incorrect statement of the number of ballots cast for any candidate, and if within that time the applicant deposits with the clerk \$25 as security for the costs in connection with the recount of the candidate declared to be elected, or if at any time within four weeks after such declaration in a city having a population of not less than 100,000 the council has by resolution declared that a recount is desirable in the public interest, the Judge may appoint a time and place to recount the votes.

Re-count of votes by County Judge, where ballot papers have been improperly counted or rejected.

(2) At least two days' notice in writing of the time and place appointed shall be given to the candidates and to the clerk, and the clerk shall attend the recount with the ballot boxes and all documents relating to the election.

Notice to candidates.

(3) The Judge, the clerk, and each candidate and his agent appointed to attend the recount, but no other person, except with the sanction of the Judge, shall be entitled to be present at the recount.

Who may be present at re-count.

(4) At the time and place appointed, the Judge shall recount all the ballot papers received by the clerk, and shall in the presence of such of the persons entitled to be present as attend, open the sealed packets containing the used ballot papers which were not objected to and were counted; the ballot papers objected to, but which were counted; the rejected ballot papers; the cancelled ballot papers; and the unused ballot papers.

Opening of packets.

(5) The Judge shall, as far as practicable, proceed continuously, allowing only time for refreshment and excluding, except so far as he and the persons present agree, the hours between six o'clock in the afternoon and nine o'clock in the succeeding forenoon, and during the excluded time the Judge shall place the ballot papers and other documents relating to the election close under his own seal, and the seals of such of the persons present as desire to affix their seals, and shall otherwise take all necessary precautions for the security of them.

Re-count to be a continuous proceeding.

(6) Subject to subsection 7 the Judge shall proceed according to the provisions for the counting of the ballot papers at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll.

Rules to govern Judge in proceedings.

(7) If for any reason it appears desirable to do so, the Judge upon the application of any party to the proceeding

Evidence may be taken.

may hear such evidence as he may deem necessary for the purpose of making a full and proper recount of the ballot papers.

Certificate
of Judge as
to result.

(8) Upon the completion of the recount the Judge shall seal up all the ballot papers in their separate packets, and shall forthwith certify the result to the clerk, who shall then declare elected the candidate having the highest number of votes.

Existing
remedies
not affected.

(9) Nothing in this section shall affect any remedy which any person may have under the provisions hereinafter contained by proceedings in the nature of *quo warranto* or otherwise. 3-4 Geo. V. c. 43, s. 129.

Costs.

130.—(1) The costs of the recount shall be in the discretion of the Judge, who may order by whom, to whom and in what manner the same shall be paid.

Taxing of.

(2) The Clerk of the County or District Court shall tax the costs and shall, as nearly as may be, follow the tariff of costs of the County Court.

Deposit,
disposal of.

(3) Where costs are directed to be paid by the applicant, the money deposited as security for costs shall be paid out to the party entitled to such costs, so far as necessary.

Recovery of
costs.

(4) Payment of the costs may be enforced by execution, to be issued from any County or District Court, upon filing therein the order of the Judge and a certificate showing the amount at which the costs were taxed and an affidavit of the non-payment of them. 3-4 Geo. V. c. 43, s. 130.

Secrecy of Proceedings.

Maintaining
secrecy of
proceedings.

131.—(1) Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting.

Interference
with voters.

(2) No person shall interfere or attempt to interfere with a voter when marking his ballot paper, or obtain or attempt to obtain at the polling place information as to how a voter is about to vote or has voted.

Communi-
cating
information
as to how
voter has
voted

(3) No person shall communicate any information obtained at a polling place as to how a voter at such polling place is about to vote or has voted. 3-4 Geo. V. c. 43, s. 131.

Inducing
voter to
display
ballot after
marking.

132. No person shall, directly or indirectly, induce or attempt to induce a voter to show his ballot paper after he has marked it so as to make known to any person how he has voted. 3-4 Geo. V. c. 43, s. 132.

Voter not to
display
marked ballot.

133. Subject to section 109 a voter shall not show his ballot paper, when marked, to any person so as to make known how he voted. 3-4 Geo. V. c. 43, s. 133.

134. Every returning officer and every officer, clerk, constable, agent and other person authorized to attend at a polling place, or at the counting of the votes, shall, before entering on his duties, take the oath of secrecy, Form 14. 3-4 Geo. V. c. 43, s. 134.

Oath of
secrecy.

135.—(1) If a returning officer, deputy returning officer or poll clerk becomes aware, or has reason to believe or suspect, that any provision of the law as to secrecy has been violated, he shall forthwith communicate the particulars to the Crown Attorney.

Proceedings
where
officers
aware of
violation of
secrecy.

(2) The Crown Attorney, on receiving such information from any person, shall forthwith enquire into the matter and, if proper, prosecute the offender. 3-4 Geo. V. c. 43, s. 135.

Crown
Attorney to
prosecute.

136. No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state how or for whom he has voted. 3-4 Geo. V. c. 43, s. 136.

No one com-
pellable to
disclose his
vote.

General.

137. Every returning officer, deputy returning officer, or other person whose duty it is to deliver poll books or who has the custody of a voters' list or poll book, who wilfully makes any alteration or insertion in or wilfully omits anything from or in any way wilfully falsifies such voters' list or poll book, shall incur a penalty of \$2,000, and shall also be liable to imprisonment for any term not exceeding one year. 3-4 Geo. V. c. 43, s. 137.

Returning
officers, etc.,
wilfully
falsifying or
altering list
of voters to
incur
penalty.

138. Every person who—

Offences
relating to
ballot papers.

- (a) Fraudulently alters, defaces or destroys a ballot paper or the initials of the deputy returning officer thereon; or
- (b) Without due authority supplies a ballot paper to any person; or
- (c) Fraudulently places in a ballot box a paper other than the ballot paper which he is authorized by law to place therein; or
- (d) Fraudulently delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot paper given to him by the deputy returning officer; or
- (e) Fraudulently takes a ballot paper out of the polling place; or
- (f) Without authority destroys, takes, opens or otherwise interferes with a ballot box or book or packet of ballot papers or a ballot paper or ballot in use or used for the purposes of an election; or

- (g) Applies for a ballot paper in the name of another person whether the name be that of a person living or dead, or of a fictitious person, or having voted applies at the same election for a ballot paper in his own name or votes oftener than he is entitled to; or
- (h) Being a deputy returning officer, contravenes section 124, or fraudulently puts his initials on the back of any paper purporting to be or capable of being used as a ballot paper at an election; or
- (i) With fraudulent intent, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election; or
- (j) Being employed to print the ballot papers for an election, with fraudulent intent prints more ballot papers than he is authorized to print; or
- (k) Attempts to commit or aids, abets, counsels or procures the commission of any offence mentioned in this section;

if a returning officer, deputy returning officer or other officer engaged in the election, shall be liable to imprisonment for any term not exceeding two years, and, in the case of any other person, to imprisonment for any term not exceeding six months. 3-4 Geo. V. c. 43, s. 138.

Persons unlawfully destroying, etc., documents relating to elections, etc.

139.—(1) Every person who wilfully and maliciously destroys, injures or obliterates, or causes to be destroyed, injured or obliterated, a warrant for holding an election, a poll book, voters' list, certificate, affidavit or other document or paper made, prepared or drawn according to or for the purpose of meeting the requirements of this Act or any of them, shall incur a penalty of \$2,000, and shall also be liable to imprisonment for any term not exceeding one year.

Abettors punishable.

(2) Every person who aids, abets, counsels or procures the commission of a violation of subsection 1 shall incur the like penalty and be subject to the like imprisonment.

Recovery of penalty.

(3) The pecuniary penalty shall be recoverable by action at the suit of His Majesty, and the imprisonment may be directed by the court in which the action is brought. 3-4 Geo. V. c. 43, s. 139.

Penalty for, D.R.O. omitting to initial ballots.

140.—(1) Every deputy returning officer who wilfully omits to put his initials on the back of a ballot paper in use for the purposes of an election, shall incur a penalty of \$10 in respect of every such ballot paper.

D.R.O. or poll clerk neglecting duties.

(2) A deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by sections 115 to 123 shall, for each refusal or neglect, incur a penalty of \$200. 3-4 Geo. V. c. 43, s. 140.

141. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise makes up a false statement of the poll shall incur a penalty of \$200. 3-4 Geo. V. c. 43, s. 141.

Wilfully
miscounting
ballots, etc.

142. Every person who acts in contravention of sections 131 to 133 shall be liable to imprisonment for any term not exceeding six months. 3-4 Geo. V. c. 43, s. 142.

Penalty for
violating
secrecy.

143. Every officer engaged in the election who is guilty of a wilful act or omission in contravention of this Act shall in addition to any other penalty or liability to which he may be subject forfeit to any person who may be aggrieved thereby the sum of \$400. 3-4 Geo. V. c. 43, s. 143.

Money
penalty for
offences.

Miscellaneous Provisions.

144. A candidate may undertake the duties which his agent might undertake, or he may assist his agent in the performance of such duties, and may be present at any place at which his agent is authorized to be present; but no candidate shall be present at the marking of a ballot paper under section 109. 3-4 Geo. V. c. 43, s. 144.

Candidate
may under-
take duties
of an agent.

145. Except where otherwise provided any oath required to be taken in connection with an election may be taken before the clerk of the municipality, a returning officer or a deputy returning officer, as well as before any other person by whom under *The Interpretation Act* an oath may be administered. 3-4 Geo. V. c. 43, s. 145.

Who may
administer
oaths re
election.

Rev. Stat.
c. 1.

146.—(1) The clerk shall retain in his possession for one month all the ballot papers, and, unless otherwise directed by an order of a Judge or officer having jurisdiction to enquire as to the validity of the election, shall then destroy them in the presence of two witnesses, who shall make a declaration that they witnessed the destruction of them.

Ballot
papers, how
disposed of.

(2) The declaration shall be made before the head of the municipality and filed in the office of the clerk. 3-4 Geo. V. c. 43, s. 146.

147.—(1) No person shall be allowed to inspect any ballot paper in the custody of the clerk except under the order of a Judge or an officer having jurisdiction to inquire as to the validity of the election.

Ballot
papers to be
inspected
only by
order of a
Judge.

(2) The order may be made on the Judge or officer being satisfied by affidavit or other evidence that the inspection is required for the purpose of maintaining a prosecution for an offence in relation to ballot papers, or of taking proceedings for contesting the election or return.

Grounds for
granting
order.

Order may
be subject
to conditions.

(3) The order may be made subject to such conditions as the Judge or officer may deem proper. 3-4 Geo. V. c. 43, s. 147.

Production
of documents
and indorse-
ments on
ballot papers
evidence for
certain
purposes.

148. Where an order is made for the production by the clerk of any document in his possession relating to an election, the production of it by him in such manner as may be directed by the order shall be evidence that the document relates to the election; and any indorsement appearing on any packet of ballot papers so produced shall be evidence that the contents are what they are stated to be by the indorsement. 3-4 Geo. V. c. 43, s. 148.

Expressions
refer-
ring to
agents.

149. Where in this Part expressions are used, requiring or authorizing any act or thing to be done, or implying that any act or thing is to be done in the presence of the agents of the candidates, they shall be deemed to refer to the presence of such agents of the candidates as are authorized to attend, and as have in fact attended, at the time and place where such act or thing is being done; and the non-attendance of an agent at such time and place, if it is otherwise duly done, shall not invalidate the act or thing done. 3-4 Geo. V. c. 43, s. 149.

Non-attend-
ance of
agents.

150. No election shall be or be declared to be invalid—

- (a) For non-compliance with the provisions of this Act as to the taking of the poll or anything preliminary thereto or as to the counting of the votes; or
- (b) By reason of mistake in the use of the prescribed forms; or
- (c) By reason of any mistake or irregularity in the proceedings at or in relation to the election;

No election
to be invalid
for want of
compliance
with provis-
ions of Act
where prin-
ciples fol-
lowed and
result not
affected.

if it appears to the tribunal by which the validity of the election or any proceeding in relation to it is to be determined that the election was conducted in accordance with the principles laid down in this Act, and it does not appear that such non-compliance, mistake or irregularity affected the result of the election. 3-4 Geo. V. c. 43, s. 150.

Expenses
incurred by
officers to be
repaid to
them.

151. The reasonable expenses incurred by a clerk or any other officer for printing, providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, and for the transmission of packets, and reasonable fees and allowances for services rendered under this Part, shall be paid to the clerk by the treasurer, and shall be paid by the clerk to the persons entitled thereto. 3-4 Geo. V. c. 43, s. 151.

Vacancies in Council.

- 152.** The seat of a member of a council shall become vacant if he—
- (a) Is undergoing imprisonment under sentence for a criminal offence; or
 - (b) Becomes insolvent within the meaning of any Insolvent Act in force in Ontario; or
 - (c) Is in close custody under *The Fraudulent Debtors Arrest Act* or is discharged from close custody under section 53 of that Act; or
 - (d) Assigns his property for the benefit of his creditors; or
 - (e) Absents himself from the meetings of the council for three successive months without being authorized so to do by a resolution of the council entered upon its minutes;

Seat to become vacant by crime, insolvency, absence, etc. See *Mearns vs. Petrolia*, 1880, 28, Grant 98.

Rev. Stat. c. 83.

and the council shall forthwith declare the seat to be vacant. 3-4 Geo. V. c. 43, s. 152.

153. Except in the cases provided for by section 152, if a member of a council forfeits his seat or his right to it or becomes disqualified to hold it and does not forthwith resign his seat, proceedings may be taken under sections 160 to 179 to declare it vacant. 3-4 Geo. V. c. 43, s. 153.

Proceedings, if disqualified member fails to resign.

154. A member of a council, with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the council. 3-4 Geo. V. c. 43, s. 154.

Resignation of member with consent of council.

155.—(1) The warden of a county may resign his office either by verbal intimation to the county council when in session or by letter to the clerk when the council is not in session.

Resignation of warden.

(2) Where from any cause a vacancy occurs in the office of warden when the council is not in session, the clerk shall forthwith notify the members of the vacancy and, if required in writing so to do by a majority of them, he shall call a special meeting of the council to fill the vacancy. 3-4 Geo. V. c. 43, s. 155.

Vacancy in office of warden—how filled.

156.—(1) Subject to sections 157 and 158, a new election shall be forthwith held where—

- (a) A person elected has neglected or refused to accept office or to make the prescribed declarations within the prescribed time; or

When new election to be held. See *Banks v. Letherby*, 17 O.L.R. 304.

(b) A vacancy, except in the office of controller, occurs from any cause.

Warrant for new election.

(2) Where a new election is to be held the head of the council, or if he is absent or unable to act or there is a vacancy in the office, the clerk, or if they are both absent or unable to act or both offices are vacant, one of the members of the council shall forthwith issue a warrant under his hand for the holding of the new election.

Returning and deputy returning officers—nomination and polling.

(3) The returning officer and the deputy returning officers appointed to hold the next preceding election shall be the returning officer and the deputy returning officers to hold the new election, and the nomination shall be held and the polling shall take place at the respective places at which the nomination was held and the polling took place at such last election, unless the council appoints other persons to hold the election and other places at which the nomination shall be held and the polling take place, which the council may do.

Procedure where new election before first meeting of council.

(4) Where a new election becomes necessary before the first meeting of the council in the year for which it is elected the duties which by subsection 2 are to be performed by the head, clerk, or a member of the council shall be performed by the head, clerk, or a member of the council of the next preceding year.

Time for holding election.

(5) The new election shall be held at the latest within fifteen days after the receipt of the warrant by the person to whom it is directed, and the person issuing the warrant shall appoint a time for the nomination of candidates and for the polling if a poll is required, and the election shall be conducted in like manner as an annual election.

Term of office of members elected.

(6) The person elected shall hold office for the residue of the term for which the person whose place he is elected to fill was elected.

Majority of council may hold first meeting.

(7) Notwithstanding that a new election becomes necessary meetings of the council may be held if a majority of the full number of the council is present. 3-4 Geo. V. c. 43, s. 156.

Vacancies in office of alderman in cities where election is by general vote.

157.—(1) Where a vacancy occurs in the office of alderman in a city where aldermen are elected by general vote the unsuccessful candidate who received the highest number of votes at the next preceding election shall be entitled to the office upon making the prescribed declarations within the prescribed time, and if he fails to do so or disclaims the office one of the candidates following in regular order according to the number of votes received shall, as hereinafter provided, become entitled to the office on making such declarations within the prescribed time.

(2) Where the number of votes cast for two or more of such candidates is equal, their order of succession shall be determined by the amounts for which they are respectively rated upon the last revised assessment roll, the candidate having the largest assessment having the priority.

Candidate having largest assessment to have priority in case of a tie.

(3) The clerk shall immediately after the vacancy occurs give notice in writing to the candidate who is first in succession that he is entitled to such vacant office if he makes the prescribed declarations within one week after the giving of the notice, and that if he fails to make the declarations within that time he shall be deemed to have disclaimed the office.

Notice of vacancy.

(4) If a candidate fails to make the prescribed declarations within the prescribed time, or disclaims the office, the clerk shall forthwith give notice in writing to the candidate next in succession in the same terms as the notice to the first candidate, until the vacant office has been filled or the list of candidates entitled to take it is exhausted.

Failure to take prescribed declarations.

(5) The notice may be served personally or may be sent by registered letter addressed to the candidate, and a record of the service or of the mailing and of the address shall be preserved by the clerk.

Service of notice on candidate.

(6) If all the aldermen were elected by acclamation, or if no candidate takes the vacant office under the preceding provisions of this section, the council shall forthwith elect a person to fill the vacancy for the remainder of the term of the member whose seat has become vacant. 3-4 Geo. V. c. 43, s. 157.

When council to elect person to fill vacancy.

158.—(1) Where the office of mayor of a city becomes vacant after the first day of July in any year and an election to fill the vacancy has not been ordered in a judicial proceeding, the council shall elect one of their number to fill the office for the remainder of the term.

Vacancy in office of mayor of city after July 1st.

(2) Where the office of mayor, reeve or deputy reeve of a town or of reeve or deputy reeve of a village or township becomes vacant after the first day of November in any year, and an election to fill the vacancy has not been ordered in a judicial proceeding, the council may elect one of its number to fill the office for the remainder of the term.

In office of mayor, reeve and deputy reeve in towns and villages.

(3) Where a vacancy occurs in the office of alderman where aldermen are not elected by general vote or of councillor after the first day of November in any year and an election has not been ordered in a judicial proceeding it shall not be necessary that the vacancy be filled if the council so directs. 3-4 Geo. V. c. 43, s. 158.

When vacancy need not be filled.

159. Where the electors do not elect the requisite number of members, the members elected if they equal at least one-half of the council when complete or a majority of them or if half of such members were not elected the members for the

Case where electors fail to elect requisite number of members.

next preceding year or a majority of them shall elect as many qualified persons as are necessary to constitute or complete the requisite number of members. 3-4 Geo. V. c. 43, s. 159.

PART IV.

PROCEEDINGS TO DECLARE SEAT VACANT.

Procedure.

Interpreta-
tion.

"Judge."

160. In this Part,—

(a) "Judge" unless the Court is referred to by name shall include a Judge of the Supreme Court and a Judge of a County or District Court;

"Master in
Chambers."

(b) "Master in Chambers" shall include any officer having jurisdiction to sit and act for the Master in Chambers. 3-4 Geo. V. c. 43, s. 160.

Who may
try validity
of election
or right to
deputy
reeve.

161.—(1) The validity of the election of a member of a council or his right to hold his seat, or the right of a local municipality to a deputy reeve, may be tried and determined by a Judge of the Supreme Court, by the Master in Chambers, or by a Judge of the County or District Court of the county or district in which the municipality is situate.

Relator—
where right
to deputy
reeve con-
tested.

(2) Where the right of a municipality to a deputy reeve is contested any candidate at the election or an elector who gave or tendered his vote at it, or where the election was by acclamation, or the right to sit is contested on the ground that the member has become disqualified or has forfeited his seat since his election, an elector entitled to vote at the election may be the relator. 3-4 Geo. V. c. 43, s. 161.

Time within
which pro-
ceedings to
be institu-
ted and
security and
proof
required.

162.—(1) If within six weeks after an election, or one month after the acceptance of office by a member of a council a person entitled to be a relator shows by affidavit reasonable ground for supposing that the election was not legal, or was not conducted according to law, or that the person declared elected was not duly elected, or for contesting the validity of the election, or if within six weeks after the facts come to the knowledge of a person entitled to be a relator he shows by affidavit reasonable ground for supposing that a member of a council has forfeited his seat or become disqualified since his election, the Judge or the Master in Chambers, as the case may be, shall give his fiat, authorizing the relator, upon entering into a recognizance as hereinafter provided, and the same being allowed as sufficient, to serve a notice of motion to determine the matter.

Recogniz-
ance.

(2) The recognizance shall be entered into before the Judge or Master in Chambers granting the fiat, or before a commissioner for taking affidavits, by the relator in the sum

of \$200 and by two sureties, to be allowed as sufficient by the Judge or Master in Chambers upon affidavit of justification, each in the sum of \$100; and shall be conditioned to prosecute the motion with effect and to pay to the person against whom it is made any costs which may be adjudged to him against the relator.

(3) When the recognizance has been allowed as sufficient, the Judge or Master in Chambers by whom it is allowed shall note upon it and upon the fiat allowing service of the notice of motion the words "*Recognizance allowed*" and shall initial the same. Allowance of recognizance.

(4) Where the proceedings are taken before a Judge of the Supreme Court or before the Master in Chambers they shall be entitled in the Supreme Court; and where they are taken before a Judge of a County or District Court they shall be entitled in that Court. Proceedings—how to be entitled. 3-4 Geo. V. c. 43, s. 162.

163. The relator in his notice of motion shall set forth his name in full, his occupation and place of residence, and the interest which he has in the election, whether as candidate or as an elector, and shall state specifically under distinct heads all the grounds of objection to the validity of the election complained of, and in favour of the validity of the election of himself or of any other person, where the relator claims that he or that such person was duly elected, or the grounds of forfeiture or disqualification, as the case may be. Contents of notice of motion. 3-4 Geo. V. c. 43, s. 163.

164. Before serving the notice of motion, the relator shall file all the affidavits and material upon which he intends to move, except where oral evidence is to be taken, and in that case he shall name in the notice the witnesses whom he proposes to examine. Affidavits, etc., to be filed. 3-4 Geo. V. c. 43, s. 164.

165. The notice of motion shall be served within two weeks from the date of the fiat, unless upon a motion to allow substituted service the Judge or Master in Chambers otherwise orders, and not less than seven clear days before the day on which the motion is returnable, and shall be served personally, unless the person to be served avoids personal service, in which case an order may be made for substituted service. Service of notice of motion. 3-4 Geo. V. c. 43, s. 165.

166. Where the relator alleges that he or some other person was duly elected, the motion shall be to try the validity of the election complained of and of the alleged election of the relator or other person. Where relator claims that he or another was elected. 3-4 Geo. V. c. 43, s. 166.

167. Where the grounds of objection apply to two or more persons elected or sitting as members of a council, the relator may proceed by one motion against all of them. One motion against several persons. 3-4 Geo. V. c. 43, s. 167.

Hearing of
motion.

168. On the hearing of the motion the relator shall not be allowed to object to the election of the person complained of or to support the election of himself or of any person alleged to have been duly elected or to attack the right of any member to sit on any ground not specified in the notice of motion; but the Judge or the Master in Chambers may entertain any substantial ground of objection to or in support of the validity of the election of either or any of the parties which may appear in evidence before him. 3-4 Geo. V. c. 43, s. 168.

Who to hear
motions
when more
than one.

169. Where more motions than one are made to try the validity of the election, or the right to sit of the same person, all of them shall be made returnable, and unless otherwise directed by a Judge of the Supreme Court, shall be heard and determined by the Judge or Master in Chambers before whom the motion, notice of which was first served, is returnable, and one order upon all, or a separate order upon one or more of them may be made, as he may deem proper. 3-4 Geo. V. c. 43, s. 169.

Requiring
clerk to
attend with
rolls, voters'
lists, etc.

170. The Judge or Master in Chambers may require the clerk of any municipality to produce before him or to forward under seal to the clerk of the county or district court for the purpose of production, such assessment rolls, collector's rolls, ballot papers, books, voters' and other lists, and other records of the election and papers in his hands connected with or relating to it as the Judge or Master in Chambers may deem proper. 3-4 Geo. V. c. 43, s. 170.

Taking of
evidence to
be used on
motion.

171. Where the motion is returnable before a Judge of the Supreme Court he may direct that the evidence to be used on the hearing of the motion be taken orally in the presence of counsel for or after notice to all parties interested before a special examiner or a Judge of a County or District Court, who shall return the evidence so taken to the proper officer of the Supreme Court. 3-4 Geo. V. c. 43, s. 171.

Returning
officer, etc.,
may be
made a
party.

172.—(1) The Judge or Master in Chambers, at any stage of the proceedings, may

(a) Add the returning officer or any deputy returning officer or other person as a party to the proceedings.

(b) Allow any person entitled to be a relator to intervene and prosecute, or to defend, and may grant a reasonable time for that purpose.

Person en-
titled to be
a relator
may prose-
cute or
defend.
Costs.

(2) An intervening party shall be liable for or entitled to costs like any other party to the proceedings. 3-4 Geo. V. c. 43, s. 172.

Mode of
trial.

173.—(1) The Judge or Master in Chambers shall, in a summary manner, without formal pleadings, hear and deter-

mine the questions raised by or upon the motion, and, subject to subsection 2, may inquire into the facts on affidavit, by oral testimony, or by an issue framed by him and sent to be tried by a jury in any Court named by him, or by one or more of those means.

(2) Where a question is raised as to whether the candidate or any voter has been guilty of any violation of sections 187 to 189, affidavit evidence shall not be used to prove the offence but it shall be proved by oral evidence taken before the Judge or before a special examiner or a Judge of a County or District Court, upon an order of reference to him for that purpose by the Judge of the Supreme Court, if the motion is returnable before a Judge of the Supreme Court, or before the Master in Chambers or the Judge of the County or District Court if the motion is returnable before him.

Evidence of corrupt practice to be taken orally.

(3) Where the seat is claimed for any person, if a candidate is proved to have been guilty, himself or by any person on his behalf, of bribery or of a corrupt practice with respect to a voter who voted at the election, or if a voter who is employed on behalf of such candidate and is disqualified under subsection 1 of section 61 is proved to have voted, there shall be struck off the number of votes given for such candidate one vote for every such voter. 3-4 Geo. V. c. 43, s. 173.

Striking off votes.

174.—(1) Where the election complained of is adjudged to be invalid, the order shall provide that the person found not have been duly elected be removed from the office, and if it is determined that any other person was duly elected that he be admitted forthwith to the office.

If election invalid, order for removal from office of person unduly elected, etc.

(2) Where it is determined that no other person was duly elected, or that a person duly elected has become disqualified or has forfeited his seat, the order shall provide for the removal from office of such last mentioned person and, except as provided by section 157, for the holding of a new election. 3-4 Geo. V. c. 43, s. 174.

Order for new election.

175. Where the election of all the members of a council is adjudged to be invalid, or where it is determined that all of them have become disqualified or have forfeited their seats, the order for their removal, and for the election of new members in their places or for the admission of others adjudged to be legally elected, and for an election to fill the remaining seats in the council, shall be directed to the clerk of the Municipality or where there is no clerk to the sheriff of the county or district in which the municipality is situate, who shall have all the powers for causing the election to be held which a municipal council or any member or officer of it has in order to fill a vacancy in it. 3-4 Geo. V. c. 43, s. 175.

Order for new election to be directed to sheriff.

Where election declared invalid owing to refusal to permit qualified persons to vote.

176.—(1) Where an election is adjudged to be invalid owing to the improper refusal of the returning officer or of a deputy returning officer to receive a ballot paper tendered by or to give a ballot paper to an elector, or owing to such officer having put into the ballot box a ballot paper which was not lawfully received from an elector, the Judge or Master in Chambers may order that the costs of the proceedings to unseat the person declared elected, or any part of them, be paid by such returning officer or deputy returning officer.

Right of action against officers preserved.

(2) Nothing in this section shall affect any right of action against the returning officer or deputy returning officer or relieve him from any penalty to which he may be liable under this Act. 3-4 Geo. V. c. 43, s. 176.

Order.

177.—(1) After the adjudication an order shall be drawn up stating concisely the ground and effect of the decision.

Amendment of order.

(2) The order may be at any time amended by the Judge or Master in Chambers in any matter of form, and shall have the same force and effect as a writ of mandamus formerly had in the like case. 3-4 Geo. V. c. 43, s. 177.

Judgment to be returned to proper officer of court.

178. The Judge or Master in Chambers forthwith after rendering his decision shall return the same with all things had before him touching the proceeding, to the proper officer of the Court, there to remain of record as a judgment of the Court; and the judgment may be enforced for the costs awarded by execution and in other respects in the same manner as an order of mandamus. 3-4 Geo. V. c. 43, s. 178.

Appeals from Master in Chambers or County Judge.

179.—(1) The decision of a Judge of the Supreme Court shall be final, but an appeal shall lie from the decision or order of the Master in Chambers or of a Judge of a County or District Court to a Judge of the Supreme Court whose decision shall be final.

Procedure on appeal.

(2) The practice and procedure on and in relation to the appeal shall be the same, as nearly as may be, as in the case of an appeal from a decision of the Master in Chambers in an action or proceeding in the Supreme Court. 3-4 Geo. V. c. 43, s. 179.

Disqualification of candidate guilty of corrupt practice.

180.—(1) A candidate elected who is found to have been guilty of bribery, or of a corrupt practice, shall forfeit his seat, and shall be ineligible as a candidate at any election for two years thereafter.

Report to be made to clerk.

(2) The Judge or Master in Chambers shall report to the Clerk of the Municipality in which the offence was committed the name of every candidate who has been so found guilty, and the clerk shall enter his name in a book to be kept for that purpose. 3-4 Geo. V. c. 43, s. 180.

Disclaimer.

181.—(1) Any person elected may at any time after the election, and before it is complained of, deliver to the clerk of the municipality a disclaimer signed by him, to the effect of following:

*"I, A.B., hereby disclaim all right to the office of
for the _____ of
_____, in the county (or
district) of _____, and all defence of any right I
may have to the same.
Dated _____ day of _____, 19____.
A.B."*

3-4 Geo. V. c. 43, s. 181.

182. A person whose election is complained of, unless it is complained of on the ground of bribery or corrupt practices on his part, or a person whose seat is attacked on the ground that he has become disqualified or has forfeited his seat, may, within one week after service on him of the notice of motion, transmit by registered post, or deliver, if the proceedings are in the Supreme Court, to the Clerk in Chambers, at Osgoode Hall, Toronto, or if the proceedings are in a County or District Court to the Judge of that Court, and to the relator or his solicitor, a disclaimer signed by him to the effect following:—

*"I, A.B., upon whom a notice of motion, in the nature of a quo warranto has been served for the purpose of contesting my right to the office of
for the _____ of _____, in the county (or
district) of _____, hereby disclaim the said
office, and all defence of any right I may have to the
same.
Dated _____ day of _____, 19____.
A.B."*

3-4 Geo. V. c. 43, s. 182.

183. A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council. 3-4 Geo. V. c. 43, s. 183.

184.—(1) A disclaimer in accordance with section 181 or 182 shall operate as a resignation.

(2) A disclaimer in accordance with section 181 shall relieve the person making it from all liability for costs.

(3) Costs shall not be awarded against a person disclaiming under section 182 unless he consented to his nomination or accepted the office. 3-4 Geo. V. c. 43, s. 184.

RULES OF PRACTICE.

Judges to
make rules,
etc.

185. The Judges of the Supreme Court may make rules regulating the practice and procedure in relation to proceedings under this Part, including the costs of and incidental to them, and as to matters not provided for in it, or by Rules of Court, the practice and procedure of the Supreme Court shall be applicable. 3-4 Geo. V. c. 43, s. 185.

Procedure
substituted
for *quo*
warranto
proceedings.

186. Proceedings for the removal from office of a person whose election is alleged to have been undue or illegal, or who is alleged not to have been duly elected, whether or not the seat is claimed by or on behalf of the relator or any other person, and proceedings to have the right of a person to sit in a council determined shall be had and taken under the provisions of this Part and not by *quo warranto* proceedings or by an action in any court. 3-4 Geo. V. c. 43, s. 186.

PART V.

BRIBERY AND CORRUPT PRACTICES.

Bribery—
who guilty
of.

Bribing
voter or
procuring
bribery by
money.

187.—(1) Every person who:—

(a) Directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure, or to endeavour to procure any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote, or refrain from voting or corruptly does any such act on account of any voter having voted or refrained from voting at an election; or

By gift or
offer or
promise of
employment.

(b) Directly or indirectly, himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for any voter, or to or for any other person in order to induce any voter to vote, or refrain from voting or corruptly does any such act on account of any voter having voted or refrained from voting at an election; or

To induce
anyone to
procure
return of
candidate
or endeavor
to procure.

(c) Directly or indirectly, himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for any person, in order to induce such person to procure or endeavour to procure the return of any candidate, or the vote of any voter at an election; or

- (d) Upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any candidate, or the vote of any voter at an election; or Receiving bribe to procure return of candidate.
- (e) Advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that such money or any part of it shall be expended in corrupt practices at an election, or who knowingly pays or causes to be paid money to any person in discharge or repayment of money wholly or in part expended in corrupt practices at an election; or Advancing money to be spent in corrupt practices.
- (f) Directly or indirectly, himself or by any other person on his behalf, on account of, and as payment for voting or for having voted, or for illegally agreeing or having agreed to vote for any candidate at an election, or on account of, and as payment for having illegally assisted or agreed to assist any candidate at an election, applies to such candidate, or to his agent, for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment; or Applying for money or employment in consideration of voting.
- (g) Before or during an election, directly or indirectly, himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election; or Receiving money, office, etc., for having voted.
- (h) After an election, directly or indirectly, himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election; or Receiving money corruptly after election.
- (i) In order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a candidate, gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person, Giving or promising office to induce candidate to stand or withdraw.

shall be guilty of bribery, shall be disqualified from voting at any election for two years, and shall incur a penalty of Penalty.

\$200, and shall also be liable to imprisonment for any term not exceeding six months.

Personal
expenses of
candidates.

(2) The actual personal expenses of a candidate, his reasonable expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate or any agent in good faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof shall not be a contravention of this Act. 3-4 Geo. V. c. 43, s. 187.

Conveying
voters to
poll.

188.—(1) A candidate who himself or by any other person on his behalf and every other person who:—

- (a) Hires or promises to pay or pays for a conveyance to carry a voter to or near or from or on the way to or from a polling place; or
- (b) Pays the travelling or other expenses of a voter in going to or returning from a polling place;

and every person who for a valuable consideration provides or furnishes a conveyance knowing that it is to be used to carry a voter other than the hirer to, or near, or from, or on the way to or from a polling place shall be guilty of a corrupt practice and shall incur a penalty of \$100, and, if a voter, shall be disqualified from voting at the election; but this subsection shall not apply to the carrying of voters to the poll in a conveyance used by the candidate personally on polling day.

Furnishing
transporta-
tion to
voters.

(2) Every person who provides or furnishes transportation free of charge or at a diminished rate to a voter to, or near, or from, or on the way to or from a polling place, and whether passes or tickets or the like are or are not supplied, shall be guilty of a corrupt practice and shall incur a penalty of \$100, and, if a voter, shall be disqualified from voting at the election.

"Convey-
ance,"
meaning of.

(3) "Conveyance," for the purposes of this section, shall include a horse, team, carriage, cab, vehicle, boat or vessel. 3-4 Geo. V. c. 43, s. 188.

Undue
influence.

189.—(1) Every person who, directly or indirectly, himself, or by any other person on his behalf, uses or threatens to use force, violence, or restraint, or inflicts or threatens to inflict injury, damage, harm or loss, or in any manner practises intimidation upon or against a voter in order to induce or compel him to vote, or refrain from voting, or on account of his having voted or refrained from voting, or who, by abduction, duress, or false or fraudulent pretence, device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of a voter, or thereby compels, induces or prevails upon a voter to vote or refrain from

voting, shall be guilty of a corrupt practice and shall be disqualified from voting for two years and shall incur a penalty of \$200, and shall also be liable to imprisonment for any term not exceeding one year. Penalty.

(2) It shall be a false pretence within the meaning of this section to represent to a voter, directly or indirectly, that the ballot to be used, or the mode of voting at an election, is not secret. 3-4 Geo. V. c. 43, s. 189. Pretence that ballot not secret.

190. The clerk shall furnish every deputy returning officer with at least two copies of sections 187 to 189, and the deputy returning officer shall post the same in conspicuous places at the polling place. 3-4 Geo. V. c. 43, s. 190. Posting of provisions as to corrupt practices.

191.—(1) No person shall be excused from answering any question put to him in an action or proceeding touching or concerning an election, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege, or on the ground that the answer will tend to criminate him, or subject him to any penalty under this Act. Witnesses not excused from answering on grounds of privilege, etc.

(2) No answer given by any person claiming to be excused on the ground of privilege, or on the ground that such answer will tend to criminate him or subject him to any penalty under this Act, shall be used in any proceeding thereunder against such person, if the Judge or officer before whom he is examined gives to the witness a certificate that he claimed the right to be excused on either of such grounds, and made full and true answer, to the satisfaction of the Judge. 3-4 Geo. V. c. 43, s. 191. Answers of witness not to be used against him if judge gives certificate.

When no penalty recoverable.

192. No pecuniary penalty shall be recoverable for bribery or a corrupt practice if it appears that the person charged and another person or other persons were together guilty of the act charged, either as giver and receiver, or as accomplices or otherwise, and that the person charged has previously *bona fide* prosecuted such other person or persons or any of them for the offence; but this provision shall not apply if the Judge before whom the person claiming the benefit of it is charged, certifies that it clearly appears to him that the person so charged took the first step towards the commission of the offence, and that he was in fact the principal offender. 3-4 Geo. V. c. 43, s. 192. When penalty for corrupt practice not to be recoverable.

PART VI.

MEETINGS OF MUNICIPAL COUNCILS.

First Meeting of Council.

First meet-
ing of
council.

193.—(1) The first meeting of every council, except a county council, shall be held on the second Monday in January of the year for which the council is elected, at eleven o'clock in the forenoon; and the first meeting of every county council shall be held on the fourth Tuesday of the same month, at two o'clock in the afternoon.

Declarations
of office
before
business.

(2) No business shall be proceeded with at the first meeting until after the declarations of office and qualification have been made by all the members who present themselves for that purpose.

When coun-
cil deemed
organized.

(3) A council shall be deemed to be organized within the meaning of this Act when the declarations of office and qualification have been made by a majority of the members, and it may be organized and business may be proceeded with notwithstanding the failure of any of the other members to make such declarations. 3-4 Geo. V. c. 43, s. 193.

Certificate
of election.

194. A member of a county council shall not take his seat until he has filed with the clerk of the county council a certificate, Form 15, under the hand of the clerk of the municipality for which he was elected and the seal of the corporation. 3-4 Geo. V. c. 43, s. 194.

Warden.
election of.

195.—(1) In each year at the first meeting of a county council at which a majority of all the members is present they shall organize as a council and elect one of the members to be warden.

Clerk to
preside.

(2) The clerk shall preside, or if there is no clerk the members present shall select a member to preside, and the person so elected may vote as a member.

Conduct of
election.

(3) Subject to subsection 4 and to section 206 the warden shall be elected in the manner provided by resolution of the council passed prior to the election.

Case of
equality of
votes.

(4) In case of an equality of votes the reeve, or in his absence the deputy reeve, or if there are more deputy reeves than one the first deputy reeve, of the municipality which for the preceding year had the largest equalized assessment, shall have a second or casting vote. 3-4 Geo. V. c. 43, s. 195.

Place of Meeting.

196. The first meeting of a county council shall be held at the county hall if there is one, and if there is none, at the court house. 3-4 Geo. V. c. 43, s. 196. Place of first meeting of county council.

197. The subsequent meetings of the county council, and all meetings of every other council shall be held at such place as the council from time to time appoints. 3-4 Geo. V. c. 43, s. 197. Subsequent meetings.

198.—(1) The council of a county in which an urban municipality lies may hold its meetings, keep its public offices and transact all the business of the corporation and of its officers and servants within such municipality, and may acquire or rent and hold such real estate therein and erect such buildings thereon as may be convenient for such purpose. Location of county and township offices.

(2) The council of a township shall have the like power in respect of an adjacent urban municipality or township in the same county. 3-4 Geo. V. c. 43, s. 198.

199.—(1) The ordinary meetings of every council shall be open, and no person shall be excluded therefrom except for improper conduct. Ordinary meetings to be open.

(2) The head or other presiding officer may expel or exclude from any meeting any person who has been guilty of improper conduct at such meeting. 3-4 Geo. V. c. 43, s. 199. Exclusion of certain persons.

200.—(1) A majority of the whole number of members required to constitute a council shall be necessary to form a quorum. Quorum.

(2) Where a council consists of only five members, the concurrent votes of at least three of them shall be necessary to carry any resolution or other measure. 3-4 Geo. V. c. 43, s. 200. Where council consists of five members.

201.—(1) The head of the council shall preside at all meetings, and may at any time summon a special meeting; and it shall be his duty to do so when requested in writing by a majority of the members. Head of council to preside.

(2) In the absence of the head of the council or if his office is vacant, a special meeting may be summoned by the clerk upon a requisition signed by a majority of the members. 3-4 Geo. V. c. 43, s. 201. Special meetings.

202. If there is no by-law or resolution fixing the place of meeting, a special meeting shall be held at the place where the then last meeting was held, and a special meeting may be either open or closed as in the opinion of the council expressed by resolution in writing the public interest requires. 3-4 Geo. V. c. 43, s. 202. Place of special meeting.

Appointment
of presiding
officer in
absence of
head.

203. In the absence of the head of the council, or if his office is vacant, the council may, from among the members, appoint a presiding officer, who during such absence or vacancy shall have all the powers of the head of the council 3-4 Geo. V. c. 43, s. 203.

Casual
absence of
presiding
officer.

204. If the person who ought to preside at any meeting does not attend within fifteen minutes after the hour appointed, the members present may appoint a presiding officer from among themselves, and he shall have the same authority as the absent person would have had if present. 3-4 Geo. V. c. 43, s. 204.

Head or
presiding
officer may
vote.

Equality
of votes to
negative
question.

205. The head of the council, or the presiding officer, except where he is disqualified to vote by reason of interest or otherwise, may vote with the other members on all questions; and, except where otherwise expressly provided by this Act, any question on which there is an equality of votes shall be deemed to be negatived. 3-4 Geo. V. c. 43, s. 205.

Voting to
be open
and to be
recorded.

206.—(1) Where a division is taken upon the election of a warden or other presiding officer, upon the appointment of an officer of the corporation or upon a by-law, resolution or for any other purpose, each member present shall announce his vote openly and individually, and the clerk shall record it.

No vote
by ballot.

(2) No vote shall be taken by ballot or by any other method of secret voting, and every vote so taken shall be of no effect. 3-4 Geo. V. c. 43, s. 206.

Prohibition
as to member
voting to
appoint him-
self to office.

207. No member of a council shall vote on any by-law appointing him to any office in the gift of the council or fixing or providing his remuneration for any service to the corporation; but this shall not apply to allowances for attendance at meetings of the council or its committees. 3-4 Geo. V. c. 43, s. 207.

Adjourn-
ment.

208. A council may adjourn its meetings from time to time. 3-4 Geo. V. c. 43, s. 208.

PART VII.

BOARDS OF CONTROL.

Board of
Control in
City of
Toronto.

209.—(1) There shall be a Board of Control for the City of Toronto consisting of the Mayor and four controllers to be elected by general vote.

Salary.

(2) The council may by by-law fix the salaries of the members of the board, not exceeding for each member \$2,500 per annum. 3-4 Geo. V. c. 43, s. 209.

210.—(1) The council of any city having a population of less than 100,000, but more than 45,000, may by by-law provide for the election by general vote of four controllers, who with the Mayor shall constitute the Board of Control. Board of Control in cities over 45,000 and under 100,000.

(2) The by-law shall not, nor shall a by-law repealing it, be passed until it has received the assent of the municipal electors. Assent of electors required.

(3) The council may by by-law fix the salaries of the members of the board, not exceeding for each member \$1,500 per annum. 3-4 Geo. V. c. 43, s. 210. Salary.

211. During the absence of the Mayor or if there is a vacancy in the office the person appointed as presiding officer of the council shall act as a member of the Board. 3-4 Geo. V. c. 43, s. 211. Presiding officer to act in absence of mayor.

212.—(1) Three members of a Board of Control shall form a quorum, and the Mayor shall preside at the meetings of the board, and in his absence the members shall appoint one of their number to preside. Quorum. Mayor to preside.

(2) If a vacancy occurs in the office of controller the council, at a meeting called for that purpose, shall elect a person to fill the vacancy for the unexpired term of the member whose seat has become vacant. 3-4 Geo. V. c. 43, s. 212. Filling vacancies.

213.—(1) It shall be the duty of the Board of Control: Duties of Board.

(a) To prepare an estimate of the proposed expenditure of the year and certify it to the council for its consideration. To prepare estimates.

(b) To prepare specifications for and award all contracts and for that purpose to call for all tenders for works, material and supplies, implements, machinery, or other goods or property required and which may lawfully be purchased for the use of the corporation, and to report its action to the council at its next meeting. To award contracts.

(c) To inspect and report to the council monthly or oftener upon all municipal works being carried on or in progress. To inspect municipal works.

(d) To nominate to the council all heads of departments and sub-departments in case of a vacancy and, after a favourable report by the head of the department, any other officer of the corporation required to be appointed by by-law or resolution of the council, and any other permanent officers, clerks or assistants, and to recommend the salaries of all officers and clerks. To nominate officers of corporation.

To suspend
or dismiss.

(e) To dismiss or suspend any head of a department and forthwith to report such dismissal or suspension to the council.

Estimates
of Board to
bind council
except on
two-thirds
vote.

(2) The council shall not appropriate or expend, nor shall any officer thereof expend or direct the expenditure of any sum not provided for by the estimates or by a special or supplementary estimate certified by the board to the council, without a two-thirds vote of the council authorizing such appropriation or expenditure, but this prohibition shall not extend to the payment of any debenture or other debt or liability of the corporation.

Head of
department
to be present
when ten-
ders are
opened.

(3) When opening tenders the board shall require the presence of the head of the department or sub-department with which the subject matter of them is connected, and when requisite the presence of the city solicitor.

Discussion
as to tenders.

(4) The head of such department or sub-department may take part in any discussion at the board relating to the tenders.

Reversal by
council by
action of
board.

(5) The council shall not, without a two-thirds vote, reverse or vary the action of the board in respect of the tenders, when the effect of such vote would be to increase the cost of the work or to award the contract to a tenderer other than the one to whom the board has awarded it.

Appointment
of head of
department
on nomina-
tion of
board.

(6) No head of a department or sub-department or other permanent officer, clerk or assistant shall be appointed or selected by the council in the absence of the nomination of the board as provided by clause (d) of subsection 1, without a two-thirds vote.

Two-third
vote of
council to
reinstate
head of
department
dismissed.
Controlling
appointment
and duties
of subordi-
nate officers.

(7) Where a head of a department has been dismissed by the board, he shall not be reappointed or reinstated by the council without a two-thirds vote.

(8) In the absence of a by-law of the council prescribing the mode of appointing, engaging or employing any officers, clerks, assistants, employees, servants and workmen not included in clauses (d) and (e) of subsection 1, the board may direct by whom and in what manner they shall be appointed, engaged or employed.

Submission
of by-laws,
etc.

(9) The board may submit proposed by-laws to the council.

Amalgama-
tion of
departments.

(10) The board, where in its opinion it is desirable, may amalgamate departments or sub-departments.

Secretary
of Board.

(11) The board may appoint a secretary or clerk who shall keep minutes of its proceedings, prepare its reports and perform such other duties as may be assigned to him by the board or by the mayor or the council.

Other duties
assigned by
council.

(12) The council may by by-law or resolution assign to the board such other duties as the council may deem proper.

(13) The board, when so required by resolution of the council, and upon one week's notice thereof, shall furnish to the council copies of the minutes of its proceedings and any other information in its possession which the council may require.

Copies of minutes, when to be furnished to council.

(14) The council may refer back to the board any report, nomination, question or matter for reconsideration.

Referring back matter for reconsideration.

(15) Where it is sought in council to reverse, set aside or vary the action of the board, or where a two-thirds vote is required, the vote by yeas and nays shall be recorded in the minutes of the council.

Recording votes on action of board.

(16) The public, the high and separate school boards, the board of education, the board of commissioners of police and the public library board and every other board whose estimates are to be provided for, shall furnish to the board on or before the first day of March in each year their annual estimates.

School Boards to send in estimates.

(17) Clause (d) of subsection 1 shall not apply to a member of the fire department, except the head of it, or to an assessor, except the assessment commissioner, or to a representative of the council upon the board of a harbour trust, or of a corporation on the board of which the council is entitled to elect a representative, or to a member of the Court of Revision.

Certain officers not to be nominated by Board.

(18) Nothing in this section shall deprive a head of a department of the power which he possessed on the 7th day of April, 1896, under any by-law or otherwise, to dismiss any subordinate officer, clerk or employee.

Powers of head of department before 7th April, 1896.

(19) Notwithstanding anything in this Act, the duties assigned to the board shall be discharged exclusively by the board, except in the case mentioned in subsection 9. 3-4 Geo. V. c. 43, s. 213.

Exclusive rights of Board.

PART VIII.

OFFICERS OF MUNICIPAL CORPORATIONS.

THE HEAD.

214. The warden of a county, the mayor of a city or town, and the reeve of a village or township, shall be the head of the council and the chief executive officer of the corporation. 3-4 Geo. V. c. 43, s. 214.

Who to be head of council.

215. It shall be the duty of the head of the council to,

Duties of head of council.

(a) Be vigilant and active in causing the laws for the government of the municipality to be duly executed and obeyed;

- (b) Oversee the conduct of all subordinate officers in the government of it and, as far as practicable, cause all negligence, carelessness and violation of duty to be prosecuted and punished; and
- (c) Communicate from time to time to the council such information, and recommend to it such measures as may tend to the improvement of the finances, health, security, cleanliness, comfort and ornament of the municipality. 3-4 Geo. V. c. 43, s. 215.

Remuneration of head.

216. The head of the council of a county and of an urban municipality may be paid such annual or other remuneration as the council may determine. 3-4 Geo. V. c. 43, s. 216.

Mayor may call out posse comitatus.

217. The mayor of a city or town may call out the *posse comitatus* to enforce the law within the municipality under the same circumstances in which the sheriff of a county may now by law do so. 3-4 Geo. V. c. 43, s. 217.

THE CLERK.

Appointment of clerk, and his duties.

218. Every council shall appoint a clerk, whose duty it shall be:

- (a) To truly record in a book, without note or comment, all resolutions, decisions and other proceedings of the council;
- (b) If required by any member present, to record the name and vote of every member voting on any matter or question;
- (c) To keep the books, records and accounts of the council;
- (d) To preserve and file all accounts acted upon by the council;
- (e) To keep in his office or in the place appointed for that purpose, the originals of all by-laws, and of all minutes of the proceedings of the council; and
- (f) To perform such other duties as may be assigned to him by the council. 3-4 Geo. V. c. 43, s. 218.

Minutes, etc., to be open to inspection.

Copies to be furnished, and charges therefor, etc.

219.—(1) Any person may, at all reasonable hours, inspect any of the records, books or documents mentioned in the next preceding section and the minutes and proceedings of any committee of the council, whether the acts of the committee have been adopted or not, and the assessment rolls, voters' lists, poll books, and other documents in the possession or under the control of the clerk, and the clerk shall, within a reasonable time, furnish copies of them, certified under his hand and the seal of the corporation, to any appli-

cant on payment at the rate of ten cents for every hundred words, or at such lower rate as the council may fix.

(2) A copy of any record, book or document in the possession or under the control of the clerk purporting to be certified under his hand and the seal of the corporation, may be filed and used in any Court in lieu of the original, and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the Court otherwise directs. 3-4 Geo. V. c. 43, s. 219.

Documents certified by clerk to be receivable in evidence.

220. Where the clerk is absent or incapable through illness of performing his duties, the council may by resolution provide that some other person, to be named in the resolution or to be appointed under the hand of the clerk, shall act in his stead and the person so appointed shall have all the powers of the clerk. 3-4 Geo. V. c. 43, s. 220.

Provision for absence, etc., of clerk.

221.—(1) The clerk of every local municipality shall in each year, within one week after the final revision of the assessment roll, make a return to the Secretary of the Bureau of Industries, on forms approved by the Lieutenant-Governor in Council and furnished by the secretary, of such statistics or information as the assessment roll or other records of his office afford, and the forms call for; and every such return shall be transmitted by registered post.

Returns to be made to Bureau of Industries.

(2) For every contravention of this section, the clerk shall incur a penalty not exceeding \$40.

Penalty.

(3) The secretary shall cause to be prepared a tabulated statement of the returns which the Minister of Agriculture shall lay before the Assembly. 3-4 Geo. V. c. 43, s. 221.

Return to Assembly.

THE TREASURER.

222.—(1) Every council shall appoint a treasurer, who may be paid either by salary or by a percentage, and may also appoint a deputy treasurer to act in the absence of the treasurer or in case of a vacancy in the office.

Treasurer to be appointed.

(2) The treasurer and the deputy treasurer, before entering on the duties of their offices, shall give such security as the council directs for the faithful performance of such duties, and for duly accounting for and paying over all money which comes into their hands.

To give security.

(3) It shall be the duty of every council, in every year, to inquire into the sufficiency of the security given by the treasurer, and to cause to be entered in its minutes the result of the inquiry. 3-4 Geo. V. c. 43, s. 222.

Annual inquiry as to sufficiency of.

223.—(1) In case of the death of the treasurer of a county, the warden may, by warrant under his hand, appoint for such special purpose as he may deem necessary, a

Appointment of county treasurer pro tem.

treasurer *pro tempore*, who shall hold office until the next meeting of the council; and all acts authorized by the warrant which are performed by him shall be as valid and binding as if performed by a treasurer.

Security to be given by.

(2) The warden shall, by the warrant, direct what security shall be given by the treasurer *pro tempore* for the faithful performance of his duties, and for duly accounting for, and paying over, all money which comes into his hands, and before entering upon his duties he shall give such security, but he shall not interfere with the books, vouchers or accounts of the deceased treasurer until a proper audit of them has been made. 3-4 Geo. V. c. 43, s. 223.

To receive and take care of and disburse money, etc.

224.—(1) The treasurer shall receive, and safely keep, all money of the corporation, and shall pay out the same to such persons and in such manner as the laws of Ontario and the by-laws or resolutions of the council direct.

When member of council may be paid for work.

(2) Except where otherwise expressly provided by this Act, a member of the council shall not receive any money from the treasurer for any work or service performed or to be performed.

His liability limited.

(3) The treasurer shall not be liable for money paid by him in accordance with a by-law or resolution of the council unless another disposition of it is expressly provided for by statute. 3-4 Geo. V. c. 43, s. 224.

Treasurer to open account in name of corporation.

225. The treasurer shall open an account in the name of the corporation in such of the chartered banks of Canada or at such other place of deposit as may be approved of by the council, and shall deposit to the credit of such account all money received by him on account of the corporation, and he shall keep the money of the corporation entirely separate from his own money. 3-4 Geo. V. c. 43, s. 225.

Half-yearly statement of assets.

226. Every treasurer shall prepare and submit to the council, half-yearly, a statement of the money at the credit of the corporation; and in local municipalities which have passed by-laws requiring it to be done shall, on or before the 20th day of December in each year, prepare and transmit to the clerk a list of all persons who have not paid their municipal taxes on or before the 14th day of that month. 3-4 Geo. V. c. 43, s. 226.

Annual list of persons in default for taxes.

Returns to be made to Bureau of Industries.

227.—(1) The treasurer of every local municipality shall, on or before the first day of April in each year, transmit by registered post to the Secretary of the Bureau of Industries, on forms approved by the Lieutenant-Governor in Council and furnished by the secretary, such information or statistics regarding the finances or accounts of the corporation as the forms call for.

(2) For every contravention of this section the treasurer shall incur a penalty not exceeding \$40. Penalty.

(3) The Secretary shall cause to be prepared a tabulated statement of the returns, which the Minister of Agriculture shall lay before the Assembly. 3-4 Geo. V. c. 43, s. 227. Tabulated statement of returns.

228.—(1) Every Treasurer, on or before the 7th day of January in each year, shall transmit by registered post to the head of every municipality to whose treasurer he has made any payment during the year ended on the 31st day of the next preceding December, a statement signed by him setting forth every such payment and the date of it. Treasurer making payments to other municipalities to send statements to head.

(2) The head of the municipality shall cause every such statement received by him to be read at the next meeting of the council after the receipt of it, and to be delivered to the auditors before the audit of the accounts for the year to which the statement relates. 3-4 Geo. V. c. 43, s. 228. Statements to be read to council and delivered to auditors.

229. Where a treasurer is removed from office, or absconds, the council shall forthwith give notice to his sureties, and his successor may draw any money of the corporation which may have been deposited by the treasurer to his credit. 3-4 Geo. V. c. 43, s. 229. Provision on dismissal from office.

ASSESSORS AND COLLECTORS.

230.—(1) The council of every local municipality shall annually appoint as many assessors and collectors for the municipality as may be deemed necessary. Assessors and collectors, appointment of.

(2) The appointment shall be made as soon as practicable after the organization of the council. When appointments to be made.

(3) The council may assign to an assessor or collector the district within which he is to act, and may make regulations for governing him in the performance of his duties. Regulations as to duties of.

(4) In a city, town or township the same person may be appointed assessor or collector for more than one ward or polling subdivision. Extent of jurisdiction.

(5) A member of the council or the clerk or treasurer of the municipality shall not be appointed assessor or collector. Who not to be assessor or collector.

(6) The collector of a municipality, the council of which has passed a by-law requiring the taxes to be paid on or before the 14th day of December, shall, on the 15th day of December in each year, return, upon oath, to the treasurer the names of all persons who have not paid their taxes. 3-4 Geo. V. c. 43, s. 230. Returns as to tax defaulters.

231.—(1) The council of a city or town, instead of appointing assessors, may appoint an assessment commissioner, who, in conjunction with the mayor, shall appoint such Assessment Commissioner in cities and towns.

assessors as may be necessary, and the assessment commissioner and the assessor shall constitute a board of assessors, and shall have all the powers and perform all the duties of assessors appointed under the next preceding section.

Duties of,
in certain
cities and
towns.

(2) The council of a city or town, having a population of less than 20,000, may provide that all the duties of an assessor shall be performed by the assessment commissioner, and in that case it shall not be necessary to appoint assessors.

Tenure of
office.

(3) It shall not be necessary to appoint the assessment commissioner, assessors or collectors of a city annually.

Notices.

(4) In a city or town which has an assessment commissioner, all notices in matters relating to assessment which in other municipalities are required by this or any other Act to be given to the clerk shall be given to the assessment commissioner.

AUDITORS AND AUDIT.

Auditors.

232.—(1) Subject to sections 233 and 240, every council shall, at its first meeting in every year, appoint two auditors.

Disqualifica-
tion for
office of.

(2) No person who is or during the next preceding year was a member of the council, or the clerk or treasurer of the municipality, or who has, or during the next preceding year had, directly or indirectly, alone or in conjunction with any other person, a share or interest in any contract or employment with or on behalf of the corporation, except as auditor, shall be appointed an auditor.

Case of
county
auditor
refusing
to act.

(3) If a person appointed auditor for a county refuses, or is unable to act, the head of the council shall appoint another person not in the employment of such head to be auditor in his stead. 3-4 Geo. V. c. 43, s. 232.

Appointment
of auditors
in November
or December.

233. The council of any municipality may provide that the auditors shall be appointed in November or December in each year for the next succeeding year, and thereafter while the by-law remains in force the council shall appoint the auditors in accordance with its terms, instead of at its first meeting. 3-4 Geo. V. c. 43, s. 233.

Duty of
auditors.

234.—(1) The auditors appointed under section 233 shall, at the end of every month, beginning with the first month in the year following that of their appointment, examine and report upon all accounts affecting the corporation, or relating to any matter under its control, or within its jurisdiction, and after the examination of every account, voucher, receipt and paid debenture submitted for audit, shall stamp on it, in indelible letters, the word "audited," and initial it.

(2) The auditors appointed under section 233 shall also perform the duties of auditors appointed under section 232 with respect to the accounts and transactions of the year in which they are appointed. 3-4 Geo. V. c. 43, s. 234.

235. An auditor may administer an oath to any person concerning any account or other matter to be audited. Auditors may administer oaths.
3-4 Geo. V. c. 43, s. 235.

236. Where an auditor of a city dies, or resigns, or his office becomes vacant from any cause, the council may fill the vacancy, and the person appointed shall hold office for the remainder of the year for which the original appointment was made. Filling vacancies.
3-4 Geo. V. c. 43, s. 236.

237.—(1) The auditors appointed under section 232 shall examine and report upon all accounts affecting the corporation or any commission managing a public utility work or relating to any matter under its control or within its jurisdiction for the year ended on the 31st day of December preceeding their appointment. Duties of auditors.

(2) They shall annually prepare in duplicate an abstract of the receipts, expenditure, assets and liabilities of the corporation or commission and a detailed statement in duplicate of the same for the next preceeding year in such form as the council may direct, and shall report on all accounts audited by them, and make a special report of any expenditure made contrary to law, and shall transmit by registered post one copy of the abstract and one copy of the detailed statement to the Secretary of the Bureau of Industries, and shall file the other abstract, the other detailed statement, and their reports, in the office of the clerk not later than the 1st day of March. To prepare abstract and detailed statement of receipts and expenditure, etc.

(3) Where the auditors are appointed under section 233, or where they have been required to make their audit under the provisions of section 240, the abstract, statements, and reports mentioned in subsection 2, shall be, with respect to the year for which they are appointed, and shall be made and filed within one month after the expiry of that year, and the auditors shall be deemed to continue in office during that period for the purpose only of preparing and filing such statements and reports.

(4) For every contravention of subsection 2 or 3 an auditor shall incur a penalty not exceeding \$40. Penalty.

(5) A resident of the municipality may inspect the abstract, statements and reports at all reasonable hours, and may, by himself or his agent, at his own expense, make a copy of or extracts from them. Inspection of abstract, statement, etc.

(6) The auditors of every municipality shall also make a report upon the condition and sufficiency of the securities of the treasurer; and such report shall show what cash balance, if any, was due from the treasurer to the corporation at the date of the audit, and where it is deposited and what security there is that the same will be available when required; but this shall not relieve the council from the performance of the duty imposed by section 222. Report on treasurer's securities.

Clerk to publish abstracts and statements.

(7) The clerk shall publish the abstract, statements and reports in such form as the council may direct; and in the case of a local municipality shall transmit a copy of the abstract and statements to the clerk of the council of the county, and the same shall be kept in his office.

Inspection of books of bank or company.

(8) The auditors may make a written requisition upon the treasurer for a request to any bank or company with which the money is or has been deposited, or with which the treasurer has kept an account, to exhibit the account and details thereof to them; and it shall be the duty of the treasurer, within twenty-four hours after the delivery to him of such requisition, to comply with it.

Publication of statements of assets and liabilities.

(9) The council of every town, village and township shall hold a meeting on the 15th day of December in each year, and shall immediately thereafter publish a detailed statement of the receipts and expenditures of the corporation for the portion of the year ended on that day, together with a statement of assets, liabilities and uncollected taxes, and a similar statement respecting the last 15 days of the next preceding year.

Publication of statements.

(10) The statements shall be signed by the head of the council and by the treasurer, and shall be published.

Posting up statements.

(11) Instead of publishing the statements the council may cause them to be posted up, not later than the 24th day of December, in the office of the clerk and of the treasurer, at all post offices, and at not less than 12 other conspicuous places in the municipality.

Delivery of copies to electors.

(12) The clerk shall procure to be printed not less than one hundred copies of the statements, and shall deliver or transmit by post one of them to every elector who requests him to do so, not later than the 24th day of December in each year, and shall also see that copies of the statements are produced at the nomination meeting.

Subsections 9-12 not to apply to certain municipalities.

(13) The next preceding four subsections shall not apply to a township municipality in a provisional judicial district, or in the electoral district of North Renfrew, or in the Provisional County of Haliburton.

Making untrue entries in financial statement.

(14) A member of a council or an officer of a corporation, or any other person, who knowingly makes or causes or procures to be made, any untrue entry in the statements, or who knowingly omits or causes to be omitted from them anything which should be included, shall incur a penalty of not less than \$5 or more than \$40. 3-4 Geo. V. c. 43, s. 237.

Audit of accounts before payment.

238. The council of a city or town may provide that all accounts shall be audited before payment. 3-4 Geo. V. c. 43, s. 238.

The council to audit finally, etc.

239. The council shall, upon the report of the auditors, finally audit and allow the accounts of the treasurer and col-

lectors, and all accounts chargeable against the corporation; and where charges are not regulated by law, the council shall allow what is reasonable. 3-4 Geo. V. c. 43, s. 239.

240. Instead of appointing two auditors annually as provided by section 232, the council may by by-law provide for the appointment of one or more auditors to hold office during pleasure, who shall daily or otherwise examine, audit and report on the accounts of the corporation. 3-4 Geo. V. c. 43, s. 240.

Auditors appointed as permanent officers.

241. The Treasurer of Ontario shall retain in his hands any money payable to a corporation, if it is certified to him by the Secretary of the Bureau of Industries that any officer of the corporation whose duty it is to make returns to the Bureau has not done so. 3-4 Geo. V. c. 43, s. 241.

Money payable by Province to be retained if returns not made.

DUTIES OF OFFICERS RESPECTING OATHS AND DECLARATIONS.

242.—(1) Every person elected as a member of the council of a township or as trustee of a police village, before he takes the declaration of office or enters upon his duties, shall make and subscribe a declaration of qualification, Form 2.

Declaration of qualification.

(2) Every member of a council, trustee of a police village, every public utility commissioner and commissioner of industries, and every clerk, treasurer, assessment commissioner, assessor, collector, engineer, clerk of works and street overseer or commissioner, before entering on the duties of his office, shall also make and subscribe a declaration of office, Form 16.

Declaration of office.

(3) Every person elected or appointed to two or more municipal offices may make one declaration of office as to all of them.

Declaration of person appointed to more than one office.

(4) Every returning officer, deputy returning officer, poll clerk, constable and other election officer, before entering upon the duties of his office, shall make and subscribe a declaration, Form 17.

Declaration of returning officers and others.

(5) Where by this Act any oath or declaration is required to be made by a deputy returning officer, or by a poll clerk, and no special provision is made therefor, the same, in the case of a deputy returning officer, may be made before the returning officer for the municipality or ward, or before the poll clerk, or before any person authorized to administer an oath; and, in the case of a poll clerk, before any such person, or before the deputy returning officer.

Administration of oaths to deputy returning officers and poll clerks.

(6) Every auditor, before entering upon his duties, shall make and subscribe a declaration, Form 18.

Auditor's declaration.

(7) Except where otherwise provided the person by whom the oath or declaration is made shall file the same in the office of the clerk within 8 days after it is made. 3-4 Geo. V. c. 43, s. 242.

Filing of declaration.

Certain officers may administer certain oaths.

243. Except where otherwise expressly provided, in addition to the persons authorized by law to administer an oath, the head of a council, a controller, an alderman, a reeve or the clerk of a municipality may, within the municipality, administer an oath, or take any declaration under this Act or relating to the business of the corporation. 3-4 Geo. V. c. 43, s. 243.

Penalty for refusing to accept office or take declaration, etc.

244. Every qualified person duly elected to be a member of a council, a trustee of a police village, or a public utility commissioner, and every person appointed as assessment commissioner, commissioner of industries, assessor or collector, who refuses the office to which he has been elected or appointed, or does not, within twenty days after knowing of his election or appointment, make and file the declaration of office and in the case of a member of the council of a township or of a trustee of a police village, the declaration of qualification and every person authorized to take any such declaration, who, upon reasonable demand, refuses to take it, shall incur a penalty of not less than \$8 or more than \$80, which, when recovered, shall be paid over to the corporation. 3-4 Geo. V. c. 43, s. 244.

SALARIES, TENURE OF OFFICE AND GRATUITIES.

Salaries of officers.

245.—(1) Where the remuneration of any officer of a corporation is not fixed by law, the council shall fix it.

Remuneration of clerk for certain services.
Rev. Stat. c. 260.

(2) The council shall give to the clerk, for services and duties performed by him, under *The Ditches and Water-courses Act*, a fair and reasonable remuneration, to be fixed by the council.

Fees for copies of awards, etc.

(3) The council shall fix the sum to be paid to the clerk by any person for copies of awards or other documents, or for any other services rendered by him, other than such as it is his duty to perform under that Act.

Remuneration not to be settled by tender.

(4) Where an appointment to an office or an arrangement for the discharge of the duties of an office is to be made the council shall not invite or require applicants to name a sum for which they will discharge the duties of the office, or give the appointment to, or make the arrangement with, the person who offers to perform the duties at the lowest salary or remuneration.

When municipality employing solicitor at a salary may recover costs.

(5) Notwithstanding that a corporation employs a solicitor or a counsel whose remuneration is wholly or partly paid by salary, annual or otherwise, the corporation shall have the right to recover and collect lawful costs in all actions and proceedings, in the same manner as if the solicitor or counsel was not so remunerated, if the costs are, by the terms of his employment, payable to the solicitor or counsel as part of his remuneration in addition to his salary. 3-4 Geo. V. c. 43, s. 245.

246. All officers appointed by a council shall hold office during the pleasure of the council, and shall, in addition to the duties assigned to them by this Act, perform all other duties required of them by any other Act, or by by-law of the council. 3-4 Geo. V. c. 43, s. 246.

Tenure of office.

Duties.

247. A council may grant to any officer who has been in the service of the corporation for at least twenty years, and who, while in such service, has become incapable, through illness or old age, of efficiently discharging the duties of his office, a sum not exceeding the aggregate of his salary or other remuneration for the next preceding three years of his service, as a gratuity upon his ceasing to hold the office. 3-4 Geo. V. c. 43, s. 247.

Gratuities.

INVESTIGATION OF CHARGES OF MALFEASANCE, ETC., OR JUDICIAL INQUIRY IN RELATION TO MUNICIPAL MATTERS.

248.—(1) Where the council of a municipality passes a resolution requesting a Judge of the County or District Court of the county or district in which the municipality is situate to investigate any matter relating to a supposed malfeasance or breach of trust, or other misconduct on the part of a member of the council, or an officer, or a servant of the corporation, or of any person having a contract with it, in regard to the duties or obligations of the member, officer, servant or other person, to the corporation, or to inquire into or concerning any matter connected with the good government of the municipality, or the conduct of any part of its public business, the Judge shall make the inquiry, and shall for that purpose have all the powers which may be conferred upon Commissioners under *The Public Inquiries Act*, and he shall, with all convenient speed, report to the council the result of the inquiry and the evidence taken.

Investigation by County Judge of charges of malfeasance.

Rev. Stat. c. 18.

(2) The Judge shall be paid by the corporation the same fees as he would be entitled to if the inquiry had been made by him as a referee under *The Judicature Act*.

Fees payable to judge.

Rev. Stat. c. 56.

(3) The council may engage and pay counsel to represent the corporation, and may pay all proper witness fees to persons summoned to give evidence at the instance of the corporation, and any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question on such investigation or inquiry, may be represented by counsel. 3-4 Geo. V. c. 43, s. 248.

Engaging Counsel.

PART IX.

GENERAL PROVISIONS APPLICABLE TO ALL MUNICIPALITIES.

JURISDICTION—NATURE AND EXTENT.

Jurisdiction
of councils.

249.—(1) Except where otherwise provided, the jurisdiction of every council shall be confined to the municipality which it represents and its powers shall be exercised by by-law.

By-law not
to be
quashed
because un-
reasonable.

(2) A by-law passed by a council in the exercise of any of the powers conferred by and in accordance with this Act, and in good faith, shall not be open to question or be quashed, set aside, or declared invalid, either wholly or partly, on account of the unreasonableness or supposed unreasonableness of its provisions or any of them. 3-4 Geo. V. c. 43, s. 249.

General
power to
make regu-
lations.

250. Every council may pass such by-laws and make such regulations for the health, safety, morality, and welfare of the inhabitants of the municipality in matters not specifically provided for by this Act, as may be deemed expedient and are not contrary to law, and for governing the proceedings of the council, the conduct of its members and the calling of meetings. 3-4 Geo. V. c. 43, s. 250.

Council a
continuing
body.

251. Proceedings begun by one council may be continued and completed by a succeeding council. 3-4 Geo. V. c. 43, s. 251.

Certain acts
not to be
done by
councils
after 31st
December.

252. The council of a local municipality shall not, after the 31st day of December in the year for which its members were elected, pass any by-law or resolution for, or which involves, directly or indirectly, the payment of money, or enter into any contract or obligation on the part of the corporation, or appoint to or dismiss from office any officer under the control of the council, or do any other corporate act, except in case of extreme urgency, or unless the act is one which the council is required by law to do. 3-4 Geo. V. c. 43, s. 252.

Power to
license
includes
power to
prohibit.

253.—(1) The power to license any trade, calling, business or occupation or the person carrying on or engaged in it shall include the power to prohibit the carrying on of or the engaging in it without a license.

Who to fix
amount of
license fee.

(2) Except where the power of fixing the sum to be paid for the license is expressly conferred on a Board of Commissioners of Police, the Council of the Municipality, where by this or any other Act the Council or the Board is authorized to pass by-laws for licensing any trade, calling, business or occupation or the person carrying on or engaged in it, may,

subject to the limitations contained in the Act, fix the sum to be paid for the license and the time for which it shall be in force and may provide for enforcing payment of the license fee.

(3) The license fee may be in the nature of a tax for the privilege conferred by it. License fee may be a tax.

(4) The granting or refusing of a license to any person to carry on a particular trade, calling, business or occupation, or of revoking a license under any of the powers conferred upon a council or a Board of Commissioners of Police by this Act, or any other Act, shall be in its discretion, and it shall not be bound to give any reason for refusing or revoking a license and its action shall not be open to question or review by any Court. Discretion as to granting or refusing a license.

(5) Where a license is revoked the licensee shall be entitled to a refund of a part of the license fee proportionate to the unexpired part of the term for which it was granted. Refund when license revoked.
3-4 Geo. V. c. 43, s. 253.

254. Subject to section 255, and to section 7 of *The Ferries Act* and to section 8 of *The Ontario Telephone Act*, a council shall not confer on any person the exclusive right of exercising, within the municipality, any trade, calling or business, or impose a special tax on any person exercising it, or require a license to be taken for exercising it, unless authorized or required by this or any other Act so to do; but the council may require a fee, not exceeding \$1, to be paid to the proper officer for a certificate of compliance with any regulations in regard to the trade, calling or business. Granting monopolies prohibited. Rev. Stat. c. 127, 188.
3-4 Geo. V. c. 43, s. 254.

255.—(1) The council of a city may grant to any person, upon such terms and conditions as may be deemed expedient, the exclusive right to place and maintain for any period not exceeding ten years, iron waste-paper boxes on the street corners or elsewhere in the city, under and subject to the direction of the city engineer and the approval of the council. Exclusive right to maintain waste paper boxes on streets.

(2) The location of the boxes shall be subject to change from time to time at the expense of the grantee, by whom the boxes shall be kept clean and painted, and the collections therein removed, to the satisfaction of the city engineer, and as often as he may direct. Location of boxes.
3-4 Geo. V. c. 43, s. 255.

256. The council of a city may establish and carry on the business of cold storage in connection with or upon the market property of the corporation. Cold storage business.
3-4 Geo. V. c. 43, s. 256.

257.—(1) Subject to the limitations and restrictions contained in this Act, a council may borrow money for the purposes of the corporation, whether under this or any other Act, and may issue debentures therefor. Borrowing powers.

Debts for
street railways.

(2) A debt contracted by the corporation of a city for the construction or maintenance of a street railway shall not be included as part of its debt for the purpose of determining whether the limit of its borrowing power as fixed by any special Act has been reached. 3-4 Geo. V. c. 43, s. 257.

AUTHENTICATION OF BY-LAWS.

How by-
laws to be
authenti-
cated.

258.—(1) Every by-law shall be under the seal of the corporation and shall be signed by the head of the council, or by the presiding officer at the meeting at which the by-law was passed, and by the clerk.

Proof of
seal or
signature
not re-
quired.

(2) Every by-law purporting to be so sealed and signed, when produced by the clerk or any officer of the corporation charged with the custody of it, shall be received in evidence in all Courts without proof of the seal or signature.

Omission to
affix seal.

(3) Where, by oversight, the seal of the corporation has not been affixed to a by-law it may be affixed at any time afterwards, and, when so affixed, the by-law shall be as valid and effectual as if it had been originally sealed.

Certified
copy to
by-law.

(4) A copy of a by-law, purporting to be certified by the clerk, under the seal of the corporation, as a true copy, shall be received in evidence in all Courts without proof of the seal or signature. 3-4 Geo. V. c. 43, s. 258.

CERTIFICATE OF CLERK AS TO APPLICATION FOR BY-LAW.

Certificate
of clerk
that appli-
cation for
by-law duly
signed.

259.—(1) Where by this or any other Act it is provided that a by-law may be passed by a council upon the application of a prescribed number of electors or inhabitants of the municipality or locality, the by-law shall not be finally passed until the clerk, or, where there is an assessment commissioner, the assessment commissioner has certified that the application was sufficiently signed.

Rev. Stat.
c. 193.

(2) For the purposes of this section the clerk and the assessment commissioner shall have all the powers of the clerk under section 16 of *The Local Improvement Act*.

Certificate to
be conclusive.

(3) Where the clerk or assessment commissioner has so certified his certificate shall be conclusive that the application was sufficiently signed. 3-4 Geo. V. c. 43, s. 259.

PART X.

VOTING ON BY-LAWS.

Interpreta-
tion.

260. In this Part,

(a) "By-law" shall include a resolution and a question upon which the opinion of the electors is to be obtained.

- (b) "Electors" shall mean the persons entitled to vote on the by-law.
- (c) "Judge" shall mean Judge or Junior Judge of the County or District Court of the county or district in which the municipality, the council of which submits the by-law, is situate.
- (d) "Proposed by-law" shall mean a by-law submitted for the assent of the electors. 3-4 Geo. V. c. 43, s. 260.

261. This Part shall be subject to the provisions of *The Liquor License Act*. 3-4 Geo. V. c. 43, s. 261. Rev. Stat. c. 215.

262. All the provisions of this Act prohibiting the doing of any act or making it an offence against this Act, and prescribing penalties therefor, applicable to the election of members of municipal councils shall apply *mutatis mutandis* to the voting upon a by-law, whether the submission of it to the electors is optional with or compulsory upon the council. 3-4 Geo. V. c. 43, s. 262. Bribery sections, etc., to apply to voting on any by-law or question.

263.—(1) Where a by-law requires the assent, or is submitted to obtain the opinion, of the electors, except where otherwise provided, the council shall, by a separate by-law, appoint the day for taking the votes of the electors, the places where the votes are to be taken, and a deputy returning officer to take the votes at every such place. If a by-law requires the assent of the electors, mode of obtaining same.

(2) The date appointed shall not be less than three, or more than five, weeks after the first publication of the notice hereinafter mentioned. Date of taking vote.

(3) A proposed by-law may be submitted on the day of the annual election, and, where it is to be so submitted, the by-law for taking the vote shall provide that the voting shall take place at the same time and at the same places as the annual election, and it shall not be necessary to appoint separate deputy returning officers to take the vote. Submitting by-law at annual election.

(4) The by-law for taking the vote shall also appoint a time when, and a place where, the clerk will sum up the number of votes given for and against the proposed by-law, or in the affirmative and the negative on the question and a time and a place for the appointment of persons to attend at the polling places, and at the final summing up of the votes by the clerk, on behalf of the persons interested in, and promoting or opposing the by-law or voting in the affirmative or the negative on the question. Time and place for summing up votes by clerk, etc.

(5) A copy of the proposed by-law, or a statement of the question submitted, as the case may be, shall be published once a week for three successive weeks, together with a notice signed by the clerk stating that the copy is a true Publication of by-law.

copy of a proposed by-law, or a correct statement of the question submitted, as the case may be, and in the case of a by-law that, if the assent of the electors is obtained to it, it will be taken into consideration by the council after the expiration of one month from the date of the first publication, which date shall also be stated, and in the case of a money by-law stating that a tenant who desires to vote must deliver to the clerk not later than the tenth day before the day appointed for taking the vote the declaration provided for by subsection 3 of section 265.

Notice.

(6) The notice shall also state the day and places appointed for taking the votes, except where the votes are to be taken at the same time as the annual election, and, in that case, shall state that the votes will be taken at the annual election, and shall also state the time and place for the appointment of persons to attend at the polling places and at the final summing up of the votes by the clerk.

Synopsis
of by-law
may be
published.

(7) Instead of publishing a copy of the proposed by-law the council may publish a synopsis of it, containing a concise statement of its purpose, the amount of the debt or liability to be created or the money to be raised by it, how the same is to be payable, and the amount to be raised annually for the payment of the debt, and the interest, or the instalments, if the debt is to be paid by instalments. *See R. S. Man., c. 116, s. 376 (b).*

One ballot
for several
by-laws.

(8) Where more money by-laws than one are submitted at the same time they may be all placed upon one ballot paper. 3-4 Geo. V. c. 43, s. 263.

Appoint-
ment
of persons
to attend at
polling
places, and
at final
summing up
of votes.

264.—(1) The head of the council, or a member of it appointed for that purpose by resolution, shall attend at the time and place appointed, and, if requested so to do, shall appoint, by writing signed by him, two persons to attend at the final summing up of the votes by the clerk, and one person to attend at each polling place on behalf of the persons interested in, and desirous of promoting, the proposed by-law, or voting in the affirmative on the question, and a like number on behalf of the persons interested in and desirous of opposing the proposed by-law, or voting in the negative on the question.

Declaration.

(2) Before any person is so appointed he shall make and subscribe a declaration, Form 19.

Appoint-
ment to be
produced.

(3) A person so appointed, before being admitted to the polling place, or to the summing up of the votes, shall, if so requested, produce and show his appointment to the deputy returning officer.

When elec-
tor may act.

(4) In the absence of a person so appointed, or if no person has been appointed, any elector, upon making and subscribing, before the returning officer or deputy returning

officer, a declaration, Form 20, may be present at a polling place, or at the final summing up of the votes, as the case may be. 3-4 Geo. V. c. 43, s. 264.

265.—(1) The persons qualified to vote on a money by-law shall be those entitled to vote at an election with the following exceptions:— Persons qualified to vote on money by-laws.

- (a) Tenants, other than those mentioned in subsection 3.
- (b) Farmers' sons.
- (c) Income voters.

(2) The nominee of a corporation assessed upon the last revised assessment roll of the municipality which, if it had been a male person, would have been entitled to have been entered on the voters' list from which the list of voters mentioned in section 266 is to be prepared or in the case provided for by section 94 would, had it been a male person, have been entitled to be entered on such list of voters, shall also be qualified to vote.

(3) A tenant, whose lease extends for the time for which the debt or liability is to be created, or in which the money to be raised by the proposed by-law is payable, or for at least twenty-one years, and who has by the lease covenanted to pay all municipal taxes in respect of the property other than local improvement rates, if he makes and files with the clerk not later than the tenth day before the day appointed for taking the vote a declaration, under *The Canada Evidence Act*, so stating, shall be entitled to have his name entered on the list of voters prepared by the clerk, under section 266. Qualification of tenants. R.S.C. c. 45.

(4) Where a corporation entitled to appoint a nominee to vote on its behalf desires to vote on a money by-law it shall not later than the tenth day before the day appointed for taking the vote file with the clerk of the municipality an appointment in writing of a person to vote as its nominee and on its behalf, and the name of every such nominee shall be included in the list. 3-4 Geo. V. c. 43, s. 265. Appointment of nominee of corporation to be filed with clerk.

266.—(1) Where the proposed by-law is a money by-law or one on which all the municipal electors are not entitled to vote the clerk, after the passing of the by-law for taking the vote, and not later than the tenth day before the day appointed for taking the vote, shall prepare a list of the persons entitled to vote on the proposed by-law and, subject to section 267 and to section 24 of *The Ontario Voters' Lists Act*, the list so prepared shall be final and conclusive as to the right of every person named therein to vote, except in the case of a local option by-law where he is not at the time of the taking of the vote thereon, and has not been for the three months before that time a *bona fide* resident of the municipality, and that no person not named therein is entitled to vote. Preparation of list of voters. Rev. Stat. c. 6.

From last revised voters' list or assessment roll.

(2) The clerk shall prepare such list from the last revised voters' list, and in the case provided for by section 94 from the last revised assessment roll, omitting from his list the names of all persons whose names are entered on such voters' list or assessment roll, but are not entitled as appears by such list or roll to vote on the by-law, and in the case of money by-laws including in the list the nominees of corporations who are entitled to vote on the by-law.

Designating tenants entitled to vote.

(3) When the voting is to take place at the same time as the annual municipal elections, it shall be sufficient in the case of persons whose names are entered on the voters' list as tenants, if there is written on the voters' list used for the purpose of the election opposite to the name of such of them as are entitled to vote on the by-law the words "entitled to vote on the by-law," and it shall be deemed that the names of all others of such persons are omitted from the list within the meaning of subsection 2.

Clerk to certify.

(4) The list prepared by the clerk shall be certified by him to be a true and correct list of all persons entitled to vote on the proposed by-law, and shall be forthwith posted up in his office. 3-4 Geo. V. c. 43, s. 266.

Revision of list by judge.

267.—(1) At any time not later than five days before the day appointed for taking the vote, a Judge, upon the application of any person whose name is entered on the list of voters prepared by the clerk, or of any person entitled to be entered on that list, may strike from the list the name of any person who is dead or whose name has been wrongly entered on it, and may add to the list the name of any person whose name has been wrongly omitted from the list, or who, if a tenant, though he had not made the declaration prescribed by subsection 3 of section 265, establishes that he has the qualification prescribed by that subsection.

Proof of death.

(2) For the purpose of proving a death, the certificate of the Registrar-General, or of the Division Registrar, shall be sufficient evidence, but if the identity of the person who is dead with the person whose name is sought to be struck off is disputed, or open to reasonable doubt, proof of the identity shall be required.

Rev. Stat. c. 6.

(3) The proceedings shall be the same, as nearly as may be, as prescribed by subsection 2 of section 23 of *The Ontario Voters' Lists Act*. 3-4 Geo. V. c. 43, s. 267.

Voters' list where all municipal electors vote.

268. Where all the municipal electors are entitled to vote on the proposed by-law the same lists shall be used in taking the vote as would be the proper voters' list to be used at a municipal election, and such lists shall be as final and conclusive as to the right to vote as when used at a municipal election. 3-4 Geo. V. c. 43, s. 268.

269. In a municipality divided into wards, a voter shall be entitled to vote on a money by-law in each ward in which he has the prescribed qualification, but shall not be entitled to vote more than once on any other by-law or on any question submitted to the electors unless it is otherwise expressly provided by the Act, by-law or other authority under which the vote is taken. 3-4 Geo. V. c. 43, s. 269.

Where rate-payers qualified in more than one ward.

270. The clerk, if otherwise qualified, shall be entitled to vote, but not to give a casting vote. 3-4 Geo. V. c. 43, s. 270.

Clerk not to have casting vote.

271. The ballot papers shall be according to Form 20 when the voting is on a by-law, and according to Form 21 when it is on a question. 3-4 Geo. V. c. 43, s. 271.

Form of ballot papers.

272. The printed directions to voters shall be according to Form 22. 3-4 Geo. V. c. 43, s. 272.

Directions to voters.

273.—(1) Where all the municipal electors are entitled to vote the voter's oath shall be the same *mutatis mutandis* as at a municipal election where the members of the council are elected by general vote.

Voter's oath where all municipal electors vote.

(2) In the case of a money by-law a voter shall not be entitled to select the form of oath he will take, but the oath to be taken by him shall be that applicable to his qualification as a freeholder or tenant, as it appears in the list of voters. 3-4 Geo. V. c. 43, s. 273.

Voter not entitled to select form of oath.

274. Except as otherwise in this Part provided, Part III. shall apply *mutatis mutandis* to voting on a by-law. 3-4 Geo. V. c. 43, s. 274.

Application of part 3.

275. After the clerk has summed up the number of votes cast he shall declare the result of the voting and shall forthwith-certify to the council the number of votes cast for and against the by-law. 3-4 Geo. V. c. 43, s. 275.

Clerk to certify result to council.

276. Subject to section 278, a by-law shall be deemed to have been assented to by the electors if a majority of the votes cast is in favour of the by-law. 3-4 Geo. V. c. 43, s. 276.

Assent of electors, what deemed to be.

277. Where the by-law is proposed to be passed by a county council the proceedings shall be similar to those in the case of a by-law proposed to be passed by the council of a local municipality except that the list of voters for each local municipality shall be prepared by the clerk of it and not by the clerk of the county council, and that the declaration and appointment provided for by subsections 3 and 4 of section 265 shall be filed with the clerk of the local municipality. 3-4 Geo. V. c. 43, s. 277.

Procedure in case of a county by-law.

Requisites of Bonus By-laws.

Vote re-
quired to
validate
bonuses to
railway,
waterworks
co., etc.

278.—(1) In the case of a by-law for granting a bonus in aid of a railway, or to a waterworks or water company, or for taking stock in, or for lending money to, or for guaranteeing the payment of money borrowed by a railway company, the assent of one-third of all the persons entitled to vote, as well as of a majority of all those voting shall be necessary.

To manu-
facturing
industries.

(2) Subject to subsection 3, in the case of a by-law for granting a bonus in aid of a manufacturing industry, the affirmative vote of three-fourths of all the members of the council and the assent of two-thirds of the electors who vote on the by-law shall be necessary.

To iron
works, grain
elevators,
etc.

(3) In the case of a by-law for granting a bonus for the promotion of iron works, rolling mills, works for refining or smelting ore or for the establishment of grain elevators, or in aid of a beet sugar factory the assent of one-third of all the persons entitled to vote, as well as of a majority of those voting shall be necessary.

Statement
by clerk.

(4) In the cases provided for by subsections 1 and 3 the clerk shall add to the prescribed certificate of the result of the voting a statement of the total number of persons entitled to vote upon the by-law. 3-4 Geo. V. c. 43, s. 278.

Scrutiny.

Scrutiny
may be had
on applica-
tion to
County
or District
Judge.

279.—(1) Within two weeks after the clerk has declared the result of the voting, any person who was entitled to vote upon the by-law or the council, after giving notice of the application to such persons as the Judge directs, may apply to a Judge of the County or District Court of the county or district in which the municipality is situate for a scrutiny of the votes, and if it is shown by affidavit that there are reasonable grounds for the application, and, if the application is by a person entitled to vote on the by-law, he enters into a recognizance before the Judge, and to be allowed by him, in the sum of \$100, with two sureties in the sum of \$50 each, conditioned to prosecute the application with effect, and to pay to any person to whom costs may be awarded the costs awarded to him, the Judge may order a scrutiny of the votes to be had, and shall appoint a time and place, within the municipality, for proceeding with it.

Notice of
time of
scrutiny.

(2) At least one week's notice of the time and place appointed shall be given by the applicant to such persons as the Judge directs, and to the clerk.

Proceedings.

(3) At the time and place appointed the clerk shall attend before the Judge with the ballot papers, and the Judge after hearing such evidence as he may deem necessary, and the parties, or such of them as attend, or their counsel, shall,

in a summary manner, determine whether the by-law has been assented to as required by this Act, and shall forthwith certify the result to the council.

(4) Where it is proved that any person interested in, and promoting or opposing the by-law, was guilty of bribery or of a corrupt practice in respect of a voter who voted on the by-law, or if any person who is disqualified under subsection 1 of section 61 from voting at an election or is disqualified under clause (a) of section 396 is proved to have voted there shall be struck off the number of votes given for the by-law, if the person guilty or so disqualified was promoting the by-law, or given against the by-law if the person guilty or so disqualified was opposing the by-law, one vote for every ballot cast by such voter. Striking off votes for corrupt practices.

(5) The Judge shall have the like power and authority as to all matters arising upon the scrutiny as would be possessed by him upon a trial of the validity of the election of a member of a council, but shall not have power to set aside the voting on the ground of general bribery or corrupt practices; and the costs shall be in the discretion of the Judge, who may direct by whom, to whom and in what manner they shall be paid. Powers of Judge. Costs.

(6) The decision of the Judge shall be final and not subject to appeal. 3-4 Geo. V. c. 43, s. 279. No appeal.

Passing By-laws by Council.

280.—(1) Where a proposed by-law which the council has been legally required by petition or otherwise to submit for the assent of the electors has received such assent, it shall be the duty of the council to pass the by-law within six weeks after the voting took place. Cases in which council must pass by-law assented to by electors.

(2) In other cases it shall not be incumbent on the council to pass the by-law, but if the council determines to pass it, it shall be passed within six weeks after the voting took place and not afterwards. Discretion of council in other cases.

(3) The by-law in either case shall not be passed until the expiration of two weeks after the result of the voting has been declared, or if within that period an order for a scrutiny has been made, until the result of the scrutiny has been certified by the Judge. Time within which by-law cannot be passed.

(4) The time which intervenes between the making of an application for a scrutiny and the final disposition of it shall not be reckoned as part of the six weeks. 3-4 Geo. V. c. 43, s. 280. Time occupied by scrutiny not to be counted.

Promulgation of By-laws.

281.—(1) The promulgation of a by-law shall consist in the publication of a true copy of it, with a notice, Form 23, appended thereto, at least once a week for three successive weeks. Promulgation of by-laws. Publication.

If not moved
against
within the
time limited,
to be valid.

(2) If an application to quash the by-law, or part of it, is not made within three months after the first publication, the by-law, or so much of it as is not the subject of or is not quashed upon any such application, shall be valid and binding, according to its terms, so far as the same ordains, prescribes or directs anything within the proper competence of the council. 3-4 Geo. V. c. 43, s. 281.

PART XI.

QUASHING BY-LAWS.

Interpreta-
tion.

282. In this Part "by-law" shall include an order or resolution. 3-4 Geo. V. c. 43, s. 282.

Proceedings
to quash
by-law.

283.—(1) The Supreme Court, upon application of a resident of the municipality or of a person interested in a by-law of its council, may quash the by-law, in whole or in part, for illegality.

Service of
notice.

(2) Notice of the application shall be served at least seven days before the return day of the motion.

Recogniz-
ance.

(3) Before the application is made, the applicant or, if the applicant is a corporation, some person on its behalf, shall enter into a recognizance before a Judge of the County or District Court of the county or district in which the municipality is situate, himself in the sum of \$50, and two sureties each in the sum of \$50, conditioned to prosecute the application with effect, and to pay any costs which may be awarded against the applicant.

Allowance
of recog-
nizance.

(4) The Judge may allow the recognizance upon the sureties making proper affidavits of justification, and after it is allowed the recognizance with the affidavits shall be filed in the Central Office of the Supreme Court.

Deposit in
court in lieu
of recogniz-
ance.

(5) In lieu of the recognizance the applicant may pay into Court \$100, and the certificate of the payment into Court shall be filed in the Central Office.

Application
of deposit.

(6) After the determination of the proceedings the Judge may order that the money paid into Court be applied in payment of costs, or be paid out to the applicant. 3-4 Geo. V. c. 43, s. 283.

Quashing
by-law for
corrupt
practice.

284. A by-law, in respect of the passing of which a violation of any of the provisions of sections 187 to 189 has taken place, may be quashed. 3-4 Geo. V. c. 43, s. 284.

Application
to quash
by-law
affecting
another
municipal-
ity.

285.—(1) Where it is alleged that a by-law injuriously affects another municipality or any ratepayer of it, and that the by-law is illegal, in whole or in part, the corporation of such other municipality or any ratepayer of it may apply to quash the by-law.

(2) Where the application is made by a municipal corporation security for costs shall not be required.

No security required from municipality.

(3) Where the application is based upon an allegation of a violation of any of the provisions of sections 187 to 189, either alone or in conjunction with any other ground of objection, the Supreme Court may direct an inquiry as to the alleged violation to be had before a special examiner or a Judge of the County or District Court of the county or district in which the municipality is situate, and the witnesses upon the inquiry shall be examined upon oath.

Inquiry by county or district judge where corrupt practices alleged.

(4) After the completion of the inquiry the special examiner or the Judge shall return the evidence taken before him to the proper officer of the Supreme Court, and the same may be read in evidence upon the motion to quash.

Return of evidence to officer of Supreme Court.

(5) Where an order directing an inquiry, under subsection 3, has been made, and a copy of it has been left with the clerk of the municipality, nothing shall be done under the by-law unless the Supreme Court otherwise orders until the application is disposed of.

No act to be done under by-law pending inquiry.

(6) In other cases the Court may direct that nothing shall be done under the by-law until the application is disposed of.
3-4 Geo. V. c. 43, s. 285.

286. An application to quash, in whole or in part, a by-law which has not been promulgated or registered under the provisions of section 296 shall not be entertained unless the application is made within one year after the passing of the by-law, unless it required the assent of the electors and had not been submitted for, or had not received their assent; but in that case an application may be made at any time.
3-4 Geo. V. c. 43, s. 286.

Time for making application to quash.
Exception.

PART XII.

MONEY BY-LAWS.

287.—(1) In this Part "Debt" shall include liability and the borrowing of money.

(2) "Rateable property" when used in this Act or in any by-law heretofore or hereafter passed which directs the levying of a rate on the rateable property in the municipality or any part of it shall include income and business assessment as defined by *The Assessment Act*. 3-4 Geo. V. c. 43, s. 287.

"Rateable property."

Rev. Stat. c. 196.

288.—(1) A money by-law shall recite:

Recitals.

(a) The amount of the debt intended to be created, and, in brief and general terms, the object for which it is to be created;

Amount to be raised annually.

The value of
the rateable
property.

- (b) The amount of the whole rateable property of the municipality according to the last revised assessment roll, or, in the case of a county, the last revised and equalized assessment rolls of the local municipalities of which the county is composed;

Amount of
existing
debt.

- (c) The amount of the debenture debt of the corporation, and how much, if any, of the principal or interest is in arrear.

When
debentures
to be made
payable.

- (2) The whole debt and the debentures to be issued therefor shall be made payable within the respective periods hereinafter mentioned at furthest from the time when the debentures are issued.

- (a) If the debt is a bonus in aid of a railway or for the promotion of iron works, rolling mills or works for refining or smelting ores, or is for railways, harbour works or improvements, sewers, gas or waterworks, the purchase or improvement of parks or the erection of high, continuation or public school houses, and the acquiring of land therefor, or for electric light, heat or power works or water privileges or land used in connection therewith, or for acquiring land for a drillshed or armoury, in thirty years.

- (b) If the debt is for the establishment of a system of public scavenging or for the collection and disposal of ashes, refuse and garbage, in ten years.

- (c) If the debt is for the purchase of road-making machinery and appliances, in five years.

- (d) If the debt is for any other purpose the whole debt, and the debentures to be issued therefor, shall be made payable in twenty years.

Amounts
to be raised
annually.

- (3) Where the principal of the debt is made payable at a fixed date with interest payable annually or semi-annually the by-law shall provide for the raising in each year during the currency of the debentures, or of any set of them, of—

- (a) A specific sum sufficient to pay the interest on the debentures, or on any set of them, when and as it becomes due; and

- (b) A specific sum which, with the estimated interest, at a rate not exceeding 4 per cent. per annum, capitalized yearly, will be sufficient to pay the principal of the debentures, or of any set of them, when and as it becomes due.

Equal
annual
instalments
of principal
and interest.

- (4) Instead of the principal being made payable at a fixed date, with interest, payable annually or semi-annually, the by-law may provide that the principal and the interest shall be combined, and be made payable in, as nearly as possible,

equal annual instalments during the period for which the debentures are to run, or that, without combining the principal and interest, the instalments of principal shall be of such amounts that, with the interest in respect of the debt, payable annually or semi-annually, the aggregate amount payable for principal and interest in each year shall be, as nearly as possible, the same.

(5) In the cases provided for by subsection 4, the by-law shall provide for raising in each year in which an instalment becomes due a specific sum sufficient to pay it when and as it becomes due. Amount to be raised annually.

(6) In the case of a by-law heretofore or hereafter passed, the council may by by-law, without the assent of the electors, authorize a change in the mode of issue of the debentures and may provide that the debentures be issued with coupons, instead of in amounts of combined principal and interest or *vice versa*; and where any debentures issued under the by-law have been sold, pledged or hypothecated the council, upon again acquiring them, or at the request of any holder of them, may cancel them, and issue one or more debentures in substitution for them, and make such new debenture or debentures payable by the same or a different mode on the instalment plan, but no change shall be made in the amount payable in each year. By-law to change mode of issuing debentures.

(7) All the debentures shall be issued at one time and within two years after the passing of the by-law, unless on account of the proposed expenditure for which the by-law provides being estimated or intended to extend over a number of years, and of its being undesirable to have large portions of the money in hand unused and uninvested, in the opinion of the council it would be of advantage to so issue them, and in that case the by-law may provide that the debentures may be issued in sets of such amounts, and at such times, as the circumstances require, but so that the first of the sets shall be issued within two years, and all of them within five years, after the passing of the by-law. Debentures, when to be dated and issued.

(8) All the debentures shall bear the same date, except where they are issued in sets, and in that case every debenture of the same set shall bear the same date. Date of debentures.

(9) The Municipal Board, on the application of the council or of any person entitled to any of the debentures, or of the proceeds of the sale thereof, may extend the time for issuing the debentures beyond the two years, or the time for the issue of any set beyond the time authorized by the by-law. Extension of time for issue.

(10) The extension may be made, although the application is not made until after the expiration of the two years or of the time provided for the issue of the set.

(11) Unless the by-law names a later day when it is to take effect, it shall take effect on the day of its passing. Day when by-law to take effect.

Assent of
electors,
when re-
quired.

289.—(1) Except where otherwise provided by this or any other Act, a corporation shall not incur any debt the payment of which is not provided for in the estimates for the current year, unless a by-law of the council authorizing it has been passed with the assent of the electors.

Exceptions.

(2) Subsection 1 shall not apply to a by-law passed

(a) Under section 290; or

Rev. Stat.
c. 193.

(b) Under *The Local Improvement Act*; or

(c) By the council of a city or county where the city forms part of the county for judicial purposes, for raising money for erecting, rebuilding, enlarging or furnishing the court house and offices to be used in connection therewith and the gaol, and for acquiring such land as may be necessary or convenient for those purposes; or

(d) By the council of a city or a separated town for raising such sum as is required to pay its share of the debt of the county as agreed upon or determined by arbitration; or

(e) By the council of a city with the approval of the Municipal Board for raising such sum as may be required to pay its share of the cost of constructing or reconstructing a bridge over any stream which constitutes a dividing line between the city and any other municipality or of reconstructing any existing bridge within the municipality; but the aggregate amount to be raised for all of such purposes in any one year shall not be more than \$10,000 where the city has a population of not more than 20,000; or \$15,000 where the city has a population of more than 20,000 and not more than 100,000; or \$20,000 where the city has a population of more than 100,000; or

(f) By the council of any municipality, with the approval of the Municipal Board, for raising such sum as is required to pay the share ordered to be paid by the corporation of the cost of any work constructed under the order of the Board of Railway Commissioners of Canada or of the Municipal Board or of any work or improvement which, in the opinion of the Municipal Board, has been rendered necessary or expedient owing to the construction of any work ordered by either of the boards; or

(g) By the council of an urban municipality for raising such sum as may be required for the purchase of a site in the municipality for an armoury or drillshed for any militia or volunteer corps having its headquarters in the municipality, if the by-law

is passed by a vote of two-thirds of all the members of the council; or

- (h) By the council of a county for guaranteeing debentures of a local municipality; or
- (i) By the council of a town or village for purchasing fire engines, appliances, apparatus and appurtenances as provided by paragraph 1 of section 407; or
- (j) For borrowing money for any of the purposes mentioned in section 43 or 44 of *The Public Schools Act*, or section 38 of *The High Schools Act*, or subsection 2 of section 3 of *The Continuation Schools Act*; or Rev. Stat. c. 266.
Rev. Stat. c. 268.
Rev. Stat. c. 269.
- (k) For borrowing a sum not exceeding \$5,000 for the purpose of making a grant to the University of Toronto; or
- (l) Under paragraph 11 of section 483; or
- (m) For borrowing any sum or incurring any debt which under the provisions of *The Public Health Act* may be borrowed or incurred without the assent of the electors. Rev. Stat. c. 218.

(3) A municipal corporation may enter into any contract for the supply of a public utility as defined by *The Public Utilities Act*, to the corporation or to the inhabitants thereof for any period not exceeding 10 years in the first instance and for renewing such contract from time to time for further periods not exceeding 10 years at any one time if a by-law setting forth the terms and conditions of such contract has been first submitted to and has received the assent of the municipal electors in the manner provided by this Act. Contracts for supply of a public utility.
Rev. Stat. c. 204.
3-4 Geo. V. c. 43, s. 289.

290.—(1) A county council may in any year borrow any sum or sums not exceeding in the whole \$20,000 over and above what is required for its ordinary expenditure and over and above any sum which the council is by this Act or any other Act expressly authorized to borrow without the assent of the electors. Special power of county to borrow.

(2) Subject to subsection 3 the by-law shall be passed at a meeting specially called for the purpose of considering it, and held not less than six weeks after the first publication of a notice of the day appointed for the meeting which shall be published once a week for four successive weeks, and shall state the amount to be borrowed, and the purpose for which it is to be borrowed. Passing of by-law.

(3) The by-law may be passed at any regular or special meeting to which the consideration of it may be adjourned.
3-4 Geo. V. c. 43, s. 290.

When
rate of
interest
may be
increased.

291. Where, owing to an advance in the rate of interest between the passing of a money by-law heretofore or hereafter passed, and the sale or other disposal of the debentures, they or any of them cannot be sold or disposed of, except at a discount involving a substantial reduction in the amount required to be provided, the council may, with the approval of the Municipal Board, and without submitting the same for the assent of the electors, pass a by-law to amend the first-mentioned by-law by providing for an increased rate of interest, and for a corresponding increase in the amount to be raised annually. 3-4 Geo. V. c. 43, s. 291.

Repeal of
by-law,
when part
only of
money
raised.

292.—(1) Where part only of a sum of money provided for by a by-law has been raised the council may repeal the by-law as to any part of the residue, and as to a proportionate part of the amounts to be raised annually.

When to
take effect.

(2) The repealing by-law shall recite the facts on which it is founded, shall be appointed to take effect on the 31st day of December in the year of its passing, shall not affect any rates due or penalties incurred before that day and shall not take effect until approved by the Municipal Board. 3-4 Geo. V. c. 43, s. 292.

Until debt
paid certain
by-laws
cannot be
repealed.

293. Subject to the next preceding section, after a debt has been contracted under a by-law, the council shall not, until the debt and interest have been paid, repeal the by-law or any by-law appropriating for the payment of the debt or the interest, the surplus income from any work or any interest therein, or money from any other source; and shall not alter any such by-law, so as to diminish the amount to be raised annually, and shall not apply to any other purpose any money of the corporation which has been directed to be applied to such payment. 3-4 Geo. V. c. 43, s. 293.

Penalty for
neglect of
officer to
carry out
by-law.

294. Any officer of a corporation whose duty it is to carry into effect any of the provisions of a money by-law who neglects or refuses to do so, under colour of a by-law illegally attempting to repeal or amend it, so as to diminish the amount to be raised annually under it, shall incur a penalty not exceeding \$100. 3-4 Geo. V. c. 43, s. 294.

Application
for approval
of by-law
by municipal
Board.

295.—(1) The council of a municipality which has heretofore passed or shall hereafter pass a money by-law, or a by-law imposing a special assessment or a special rate under this or any other Act, or the holder of any debenture issued under any such by-law or any person entitled to receive any of such debentures or of the proceeds of the sale thereof, may apply to the Municipal Board for a certificate approving the by-law.

Certificate
not to be
granted
while pro-
ceedings
pending.

(2) A certificate shall not be granted while any action or proceeding in which the validity of the by-law is called in question, or by which it is sought to quash it, is pending, or until thirty days after the final passing of the by-law, unless

notice of the application shall be given in such manner and to such persons, if any, as the Board may direct.

(3) The Board may grant the certificate notwithstanding any irregularity in the proceedings prior to the final passing of the by-law or in the by-law itself, or where the by-law has been amended by the council to conform with the provisions of the Act under the authority of which it was passed, and, except in the case provided for by section 291, the burden on the ratepayers is not increased by the amending by-law, if in the opinion of the Board the provisions of the Act under the authority of which the by-law was assumed to be passed have been substantially complied with.

Board may grant certificate upon proof of substantial compliance with law.

(4) Every by-law approved by the Board and the debentures issued or which may thereafter be issued in substantial conformity with its provisions, shall be valid and binding upon the corporation and upon the property liable for the rate imposed by or under the authority of the by-law, and the validity of the by-law and of every such debenture shall not thereafter be open to question in any court.

By-law and debentures not to be open to question after approval.

(5) Where a by-law has been approved the Board may also approve the debentures issued or which may thereafter be issued under the authority of the by-law, and every debenture so approved shall be valid and binding upon the corporation and upon the property liable for the rate imposed by or under the authority of the by-law and the validity of any debenture so approved shall not be open to question in any court.

Approval of debentures.

(6) The certificate may be in the following form:

Form of certificate.

"In pursuance of *The Municipal Act*, the Ontario Railway and Municipal Board hereby certifies that the within by-law (or debenture) is valid and binding, and that its validity is not open to be questioned in any court on any ground whatever.

Dated
(Seal.)

Chairman."

3-4 Geo. V. c. 43, s. 295.

REGISTRATION OF MONEY BY-LAWS.

296.—(1) Within four weeks after the passing of a money by-law the clerk shall register a duplicate original or a copy of it certified under his hand and the seal of the corporation, in the case of a county, in the registry division in which the county town is situate, and, in the case of a local municipality, in the registry division in which it is situate, or if the municipality comprises parts of two or more registry divisions in either of them.

a Money by-law to be registered.

(2) A clerk who neglects to perform within the prescribed period the duty imposed upon him by subsection 1 shall incur a penalty of \$200, recoverable by action, and, in default of payment, shall be liable to imprisonment for such period, not exceeding twelve months, as the Court may direct.

Penalty.

Publication
of notice.

(3) Notice, Form 24, of the registration of every such by-law, except a by-law which has received the assent of the electors, or a by-law mentioned in subsection 4 shall immediately after its registration be published at least once a week for three successive weeks.

Exception
as to cer-
tain by-laws.
Rev. Stat.
c. 198.
Rev. Stat.
c. 198.

(4) It shall not be obligatory to register a by-law for the issue of debentures passed under *The Municipal Drainage Act* or under *The Local Improvement Act*.

Application
to quash
registered
by-law—
when to be
made.

(5) Every by-law registered in accordance with the provisions of subsection 1, or before the sale or other disposition of the debentures issued under it, and the debentures shall be valid and binding, according to the terms thereof, and the by-law shall not be quashed, unless within one month after the registration in the case of by-laws to which subsection 4 applies, and in the case of other by-laws, within three months after the registration or where publication of the notice provided for by subsection 3 is required within three months after the first publication of the notice, an application or action to quash the by-law is made to or brought in a Court of competent jurisdiction, and a certificate under the hand of the proper officer of the Court and its seal, stating that such application has been made or action brought is registered in such registry office within such period of three months.

When by-
law, or so
much there-
of as is
not quashed,
to be valid.

(6) If the application or action is dismissed, in whole or in part, a certificate of the dismissal may be registered and at the expiration of three months from the date of the registration of the by-law the by-law, or so much of it as is not quashed, shall be valid and binding according to its terms.

Illegal by-
laws not
validated.

(7) Nothing in this section shall make valid a by-law, which requires, but has not received, the assent of the electors, or a by-law where it appears on the face of it that any of the provisions of subsections 2, 3, 4 and 6 of section 288 have not been substantially complied with.

(8) Failure to register a by-law as prescribed by this section shall not invalidate it. 3-4 Geo. V. c. 43, s. 296.

PART XIII.

YEARLY RATES AND ESTIMATES.

Yearly-rates
to be levied,
sufficient to
pay all debts
payable
within the
year.

297.—(1) Subject to subsection 13 of section 397, the council of every municipality shall in each year assess and levy on the whole rateable property within the municipality a sum sufficient to pay all debts of the corporation, whether of principal or interest, falling due within the year, but shall not assess and levy in any year more than two cents in the dollar on the assessed value of such property according to the last revised assessment roll, exclusive of school and local improvement rates.

Limit of
rates.

(2) If the aggregate amount of the rates necessary for payment of the current annual expenditure of the corporation and the principal and interest of such debts exceeds the rate mentioned in subsection 1, the council shall assess and levy such further sum as may be necessary to discharge such debts, but shall not contract any further debt until the annual rates are reduced to that rate. 3-4 Geo. V. c. 43, s. 297.

Where aggregate rates insufficient.

298.—(1) The council of every municipality shall, in each year, prepare estimates of all sums required for the purposes of the municipality during such year, making due allowance for the cost of collection, and for the abatement of taxes and for taxes which may not be collected.

Estimates to be made annually.

(2) One by-law or several by-laws for assessing and levying the rates may be passed as the council may deem expedient. 3-4 Geo. V. c. 43, s. 298.

By-laws for levying rates.

299.—(1) Where the amount collected falls short of the sum required the council may direct that the deficiency be made up from any unappropriated fund, or, if there is no such fund, the deficiency may be deducted proportionately from the sums estimated, or from any one or more of them.

If the amount collected falls short. Estimates may be reduced.

(2) Where the amount collected exceeds the estimates, the surplus shall form part of the general funds, and shall be at the disposal of the council unless otherwise specially appropriated. 3-4 Geo. V. c. 43, s. 299.

When sums collected exceed estimate.

300. The rates imposed for any year shall be deemed to have been imposed and to be due on and from the 1st day of January of such year unless otherwise expressly provided by the by-law by which they are imposed. 3-4 Geo. V. c. 43, s. 300.

Rates to be due on January 1st.

PART XIV.

RESPECTING FINANCES.

ACCOUNTS AND INVESTMENTS.

301. Every council shall keep a separate account of every debt and shall also keep two additional accounts in respect thereof, one for the interest and the other for the sinking fund or the instalments of principal, and both to be distinguished from all other accounts by a prefix designating the purpose for which the debt was contracted; and the accounts shall be kept so as to exhibit at all times the state of every debt, and the amount of money raised, obtained and appropriated for payment of it. 3-4 Geo. V. c. 43, s. 301.

Accounts, how to be kept.

Application
of surplus
money.

302.—(1) If, in any year, after paying the interest and appropriating the necessary sum to the sinking fund, or in payment of the instalments, there is a surplus properly applicable to such debt, it shall so remain until required in due course for the payment of interest or for the sinking fund, or in payment of the principal.

Money levied for a sinking fund not to be diverted.

(2) No money collected for the purpose of a sinking fund shall be applied towards paying any part of the current or other expenditure of the corporation.

Liability of members for diversion of sinking fund.

(3) If the council applies any of such money in paying current or other expenditure, the members who vote for such application shall be personally liable for the amount so applied, which may be recovered in any Court of competent jurisdiction.

Action by ratepayer.

(4) If the council, upon the request in writing of a ratepayer, refuses or neglects for one month to bring an action therefor, the action may be brought by any ratepayer on behalf of himself and all other ratepayers.

Disqualification.

(5) The members who vote for such application shall be disqualified from holding any municipal office for two years.

Statement of Treasurer as to amount required for sinking fund.

(6) The treasurer of a municipality in which any sum is required by law to be raised for a sinking fund, shall prepare and lay before the council in every year, previous to the striking of the annual rate, a statement showing what amount will be required for that purpose.

Penalty.

(7) For every contravention of subsection 6 the treasurer shall incur a penalty not exceeding \$25.

Penalty where council neglects to levy for sinking fund.

(8) If the council neglects in any year to levy the amount required to be raised for a sinking fund, each member of the council shall be disqualified from holding any municipal office for two years, unless he shows that he made reasonable efforts to procure the levying of such amount. 3-4 Geo. V. c. 43, s. 302.

Investment of sinking fund.

303. Subject to the provisions of sections 304 and 305, the council shall invest the sinking fund in such securities as a trustee may invest in under *The Trustee Act*, or with the approval of the Municipal Board in any debentures of the corporation. 3-4 Geo. V. c. 43, s. 303.

Rev. Stat. c. 121.

Redemption of debentures with sinking fund.

304. The Municipal Board, on the application of a council, may direct that any part of the sinking fund, instead of being invested as hereinbefore provided, shall, from time to time, be applied to the redemption of any of the debentures, to the payment of which such sinking fund is applicable, to be selected as provided by the order of the Board at such value as may be agreed on by the council and the holders of the debentures. 3-4 Geo. V. c. 43, s. 304.

305.—(1) A council may provide by a money by-law that the annual amount to be levied on account of the sinking fund shall be paid by the treasurer of the municipality to the Treasurer of Ontario, and if the by-law does not provide for such payment the council may pass a by-law providing therefor.

Payment of sinking fund into Provincial Treasury.

(2) Where a council avails itself of the right conferred by the next preceding subsection, the Treasurer of Ontario may receive from the treasurer of the municipality the annual amounts so levied on account of the sinking fund and allow and credit the municipality with interest thereon at the rate of four per cent. per annum, compounded yearly until the time when the debentures to which the sinking fund is applicable become payable and the sinking fund is required for their redemption.

Treasurer may allow interest on funds in his hands.

(3) All money received by the Treasurer of Ontario under the provisions of this section shall form part of the Consolidated Revenue Fund, and a statement of the amount at the credit of each municipality shall be set forth annually in the Public Accounts of Ontario.

Money so received to form part of Consolidated Revenue.

(4) The Treasurer of Ontario may invest the amount at the credit of a municipality or any part thereof in the debentures of such municipality, to redeem which such sinking funds were paid to the Treasurer.

Sinking fund may be invested in the debentures to be redeemed.

(5) The amount payable in any year into the sinking fund which under the provisions of the by-law is to be paid to the Treasurer of Ontario shall be deemed a debt due to him, and in default of payment thereof he may sue therefor in his own name as for a debt due to the Crown in any Court of competent jurisdiction. 3-4 Geo. V. c. 43, s. 305.

Amount payable into sinking fund to be a debt to the Treasurer.

306. Every corporation the council of which shall hereafter pass a money by-law shall within thirty days after the final passing of the by-law transmit a certified copy of it to the Treasurer of Ontario. 3-4 Geo. V. c. 43, s. 306.

Money by-laws to be sent to Provincial Treasurer.

307. Where by any by-law heretofore or hereafter passed provision is made for raising a sinking fund to meet the debentures to be issued under the authority of the by-law the council in each year in which a sinking fund is required to be raised shall transmit to the Treasurer of Ontario a return showing whether the sinking fund for the year has been raised and how it has been applied or dealt with, and the state of the investment of any part of the sinking fund theretofore collected, which return shall be verified by the affidavit or statutory declaration of the head and the treasurer of the municipality. 3-4 Geo. V. c. 43, s. 307.

Annual return as to sinking fund.

308. A corporation the council of which does not comply with the provisions of the next two preceding sections shall incur a penalty not exceeding \$100. 3-4 Geo. V. c. 43, s. 308.

Penalty.

Certain money may be set apart for educational purposes.

Investment of same.

309.—(1) Where a corporation has surplus money derived from "The Ontario Municipalities Fund," or from any other source, the council may set it apart for educational purposes and may invest it as well as any other money held by the corporation for or appropriated by it to such purposes in the securities mentioned in section 303, or may lend the same to any board of public school trustees in the municipality for such term and at such rate of interest as may be agreed upon, or may apply any part of such money in aid of poor school sections in the municipality. 3-4 Geo. V. c. 43, s. 309.

Apportionment of public school money among school sections in townships.

310. The council of a township may apportion, among the public school sections in the township, the principal or interest of any investments for public school purposes, according to the salaries paid to the teachers, or the average attendance of pupils in the respective school sections during the next preceding year, or according to the assessed value of the property in the section, or by an equal division among the sections. 3-4 Geo. V. c. 43, s. 310.

Prohibition as to unauthorized investment.

311. A member of a council shall not take part in, or be a party to, the investment of any such money, otherwise than as authorized by this Act; and, if he does so, he shall be personally liable for any loss sustained by the corporation in respect of the investment. 3-4 Geo. V. c. 43, s. 311.

Council to make annual report of debts to Bureau of Industries.

312.—(1) Every corporation shall, on or before the 31st day of January in each year, transmit to the Secretary of the Bureau of Industries in such form as may be prescribed by the Lieutenant-Governor in Council a statement as to the debts of the corporation, as they stood on the preceding 31st day of December, specifying, in regard to each debt of which any part remained unpaid on that day,

- (a) The original amount of the debt;
- (b) The date when it was contracted;
- (c) The time fixed for its payment;
- (d) The interest payable;
- (e) The amount to be raised annually for the payment of the debt and interest, or the instalments of them;
- (f) The amount actually raised in the year ended on the 31st day of December;
- (g) The part, if any, of the debt redeemed or paid during that year;
- (h) The amount of interest, if any, unpaid on that day; and
- (i) The amount of principal still unpaid.

(2) For every contravention of subsection 1 the corporation shall incur a penalty not exceeding \$40. 3-4 Geo. V. c. 43, s. 312. Penalty.

COMMISSION OF INQUIRY INTO FINANCES.

313.—(1) The Lieutenant-Governor in Council, on the application of one-third of the members of a council or of thirty municipal electors, may issue a commission to inquire into the financial affairs of the corporation and any matter connected therewith and the commissioner shall have all the powers which may be conferred on commissioners appointed under *The Public Inquiries Act*. When a commission of inquiry may issue.
Rev. Stat. c. 18.

(2) The expenses of and incidental to the execution of the commission shall be determined and certified by the Treasurer of Ontario, and shall thereupon become a debt due by the corporation to the commissioner, payable within three months after demand therefor. 3-4 Geo. V. c. 43, s. 313. Expenses of commission.

DEBENTURES.

314.—(1) A debenture or other like instrument shall be sealed with the seal of the corporation, and signed by the head of the council, or by some other person authorized by by-law to sign it, and by the treasurer. Debentures how to be executed.

(2) A debenture may have coupons for the interest attached to it which shall be signed by the treasurer, and his signature to them may be written, stamped, lithographed or engraved. Execution of coupons.

(3) A debenture may be made payable to bearer or to a named person or bearer and the full amount of it shall be recoverable notwithstanding its negotiation by the corporation at a discount. 3-4 Geo. V. c. 43, s. 314. Full amount of debentures sold at a discount recoverable.

315. Where the interest for one year or more on the debentures issued under a by-law heretofore or hereafter passed and the principal of any debenture which has matured has been paid by the corporation the by-law and the debentures issued under it shall be valid and binding upon the corporation. 3-4 Geo. V. c. 43, s. 315. Debentures on which payment has been made for one year to be valid.

316.—(1) Where a debenture contains or has endorsed upon it a provision to the following effect:— Mode of transfer may be prescribed.

“This debenture, or any interest therein, shall not, after a certificate of ownership has been indorsed thereon by the treasurer of this corporation, be transferable, except by entry by the treasurer or his deputy in the Debenture Registry Book of the Corporation at the _____ of _____.”

the treasurer, on the application of the owner of the debenture or of any interest in it, shall endorse upon the debenture a certificate of ownership and shall enter in a book, to

Debenture
registry
book.

be called the Debenture Registry Book, a copy of the certificate and of every certificate which is subsequently given and shall also enter in such book a memorandum of every transfer of such debenture.

Requirements
as to endorsing
certificate of
ownership.

(2) A certificate of ownership shall not be endorsed on a debenture, except by the written authority of the person last entered as the owner of it, or of his executors or administrators, or of his or their attorney, which authority shall be retained and filed by the treasurer.

Transfer by
entry in
registry book.

(3) After a certificate of ownership has been endorsed the debenture shall be transferable only by entry by the treasurer or his deputy in the Debenture Registry Book, as and when a transfer of the debenture is authorized by the then owner of it or his executors or administrators or his or their attorney. 3-4 Geo. V. c. 43, s. 316.

Borrowing
by hypothe-
cation of
debentures.

317.—(1) A council, pending the sale of a debenture, or in lieu of selling it, may by by-law or resolution authorize the head and treasurer to raise money by way of loan on such debenture and to hypothecate it for the loan.

Application of
proceeds of
loan.

(2) The proceeds of every such loan shall be applied to the purposes for which the debenture was issued, but the lender shall not be bound to see to the application of the proceeds and, if the debenture is subsequently sold, the proceeds of the sale shall be applied first in repayment of the loan. 3-4 Geo. V. c. 43, s. 317.

Debentures,
etc., not to
be for less
sums than
\$100.

318.—(1) Subject to subsection 2, a corporation shall not make or give any bond, bill, note, debenture or other undertaking for the payment of a less amount than \$100; and any such bond, bill, note or debenture shall be void.

Proviso as to
debentures
issued for
sums which
include prin-
cipal and
interest.

(2) A debenture heretofore or hereafter issued under the authority of any by-law, providing for payment of principal and interest together yearly so computed and apportioned that the sum of both principal and interest is an equal annual sum of not less than \$100, whether the debenture is issued with or without coupons, shall be deemed to be a debenture of not less than \$100 within the meaning of this section, and all debentures heretofore or hereafter so issued under such a by-law and otherwise legal shall be valid. 3-4 Geo. V. c. 43, s. 318.

TEMPORARY LOANS.

Borrowing
sums for
current
expenditure.

319.—(1) A council may either before or after the passing of the by-law for imposing the rates for the current year authorize the head and treasurer to borrow on such security, if any, as the by-law may authorize, such sums as the council may deem necessary to meet the current ordinary expenditure of the corporation, and the sums required to be raised in the current year for High and Public School purposes until the taxes are collected.

(2) The amount so borrowed and outstanding shall not at any time exceed in the case of a county the amount required to be provided for by the county rate for the current year, and in the case of a local municipality the following percentages of its ordinary expenditure for the next preceding year, together with the amount required to be raised for High and Public School purposes for the current year;

Limit of
borrowing
power.

(a) In the case of a town, village or township, any part of which is situate within 2 miles of a city having a population of not less than 100,000—80 per cent.;

(b) In the case of a city and of any other town, village or township—90 per cent.

(3) If the council authorizes the borrowing of any larger sum, every member who votes therefor shall be disqualified from holding any municipal office for two years.

Disqualifica-
tion of
members
voting to
exceed limit.

(4) The lender shall not be bound to establish the necessity of borrowing the sum lent. 3-4 Geo. V. c. 43, s. 319.

Lender
not put on
inquiry.

320. When a corporation has heretofore guaranteed or hereafter guarantees the payment of the principal or interest of any bonds or debentures and default is made in payment of the principal or interest by the person primarily liable therefor, the council of such corporation may agree with any bank or person for temporary advances to meet the amount in default in any one year pending the collection of such amount by a rate on all the rateable property in the municipality, or where the guarantee is by or on behalf of a section or portion of a township by a rate on all the rateable property in such section or portion. 3-4 Geo. V. c. 43, s. 320.

Power to
borrow
to meet
guarantee
of debentures.

PART XV.

ACQUISITION OF LAND AND COMPENSATION.

LAND TAKEN OR INJURIOUSLY AFFECTED.

321. In this Part:

Interpreta-
tion.

- (a) "Expropriation" shall mean taking without the consent of the owner, and "Expropriate" and "Expropriating" shall have a corresponding meaning.
- (b) "Land" shall include a right or interest in, and an easement over, land;
- (c) "Owner" shall include mortgagee, lessee, tenant, occupant, and a person entitled to a limited estate or interest in land, a trustee in whom land is vested, a committee of the estate of a lunatic, an executor, an administrator, and a guardian;

"Expropriation."

"Land."

"Owner."

"The Judge."

(d) "The Judge" shall mean, in the case of an arbitration as to the compensation for land expropriated, or for injuriously affecting land, a Judge of the County or District Court of the county or district in which the land or any part of it is situate, and in the case of any other arbitration, if the corporation of one municipality only is a party to it, a Judge of the County or District Court of the county or district in which the municipality, if it is a local municipality, is situate, or, if it is a county, of that county, and if the corporations of two or more municipalities are parties to the arbitration, a Judge of the Supreme Court. 3-4 Geo. V. c. 43, s. 321.

Power to acquire or expropriate land.

322.—(1) The council of every corporation may pass by-laws for acquiring or expropriating any land required for the purposes of the corporation, and for erecting buildings thereon, and may sell or otherwise dispose of the same when no longer so required.

Taking more land than required.

(2) Where in the exercise of its powers of acquiring or expropriating land it appears to the council that it can acquire a larger quantity of land from any particular owner at a more reasonable price and on terms more advantageous than those upon which it could obtain the part immediately required for its purposes, the council may acquire or expropriate such larger quantity and may afterwards sell and dispose of so much of it as is not so required.

Land to be described in by-law, etc.

(3) A by-law for entering on or expropriating land shall contain a description of the land, and, if it is proposed to expropriate an easement or other right in the nature of an easement, a statement of the nature and extent of the easement to be expropriated. 3-4 Geo. V. c. 43, s. 322.

Sale of land by council when not to be open to question.

323. The determination of a council as to the time when, the manner in which, the price for which or the person to whom any property of the corporation, which the council may lawfully sell, shall be sold, shall not be open to question, review or control by any Court, if the purchaser is a person who may lawfully buy, and the council acted in good faith. 3-4 Geo. V. c. 43, s. 323.

Power to enter on land after expropriation by-law passed.

324.—(1) At any time after the passing of a by-law for entering on or expropriating land the corporation, by leave of the Judge and upon payment into the Supreme Court of a sum sufficient, in the opinion of the Judge, to satisfy the compensation, may enter upon the land, and, if any resistance or forcible opposition is made to its so doing, the Judge may issue his warrant to the Sheriff of the County or District in which the land lies to put the corporation in possession, and to put down such resistance or opposition which the Sheriff, taking with him sufficient assistance, shall accordingly do.

(2) Leave of the Judge and payment into Court shall not be necessary where the land is being expropriated for or in connection with the opening, widening, altering or diverting a highway unless upon application by the owner a Judge of the Supreme Court otherwise directs. 3-4 Geo. V. c. 43, s. 324.

When leave and payment into Court not required.

325.—(1) Where land is expropriated for the purposes of a corporation, or is injuriously affected by the exercise of any of the powers of a corporation or of the council thereof, under the authority of this Act or under the authority of any general or special Act, unless it is otherwise expressly provided by such general or special Act, the corporation shall make due compensation to the owner for the land expropriated, or where it is injuriously affected by the exercise of such powers for the damages necessarily resulting therefrom, beyond any advantage which the owner may derive from any work, for the purposes of, or in connection with which the land is injuriously affected.

Owners of lands taken, etc., by corporation, etc., to be compensated.

(2) The amount of the compensation, if not mutually agreed upon, shall be determined by arbitration.

Arbitration.

(3) Where fencing or additional fencing will become necessary, owing to land having been expropriated, the cost of it shall be included in the compensation.

Fencing.

(4) Where part only of the land of an owner is expropriated, there shall be included in the compensation a sum sufficient to compensate him for any damages directly resulting from severance. 3-4 Geo. V. c. 43, s. 325.

Damages resulting from severance.

326.—(1) Except where the person entitled to the compensation is an infant, a lunatic, or of unsound mind, a claim for compensation for damages resulting from his land being injuriously affected shall be made in writing, with particulars of the claim, within one year after the injury was sustained, or after it became known to such person, and, if not so made, the right to compensation shall be forever barred.

Claim for compensation, when and how to be made.

(2) In the case of an infant, a lunatic, or a person of unsound mind, the claim shall be so made within the same period, or within one year after he ceased to be under the disability, whichever shall be the longer, or in case of his death while under the disability within one year after his death, and, if not so made, the right to compensation shall be forever barred.

Case of infant, lunatic, etc.

(3) This section shall not apply where the expropriating by-law provides for acquiring an easement or right in the nature of an easement, and the damages arise from the exercise of such easement or right. 3-4 Geo. V. c. 43, s. 326.

Exception, as to acquiring easement.

Appoint-
ment of
person to
act for
owner who
is unknown
or cannot
be found.

327.—(1) If the owner of the land is unknown, or cannot be found, or if there is no person competent to contract with the corporation for the sale to it of the land, and to convey it to the corporation, the Judge may, on the application of the corporation, appoint a person to act for the owner, and all acts done, contracts made, and conveyances executed by such person, shall be as valid and effectual as if the same were done, made or executed by the owner, and he were of full age and competent to do the act, make the contract or execute the conveyance.

Payment
of com-
pensation
into Court.

(2) In the cases provided for by subsection 1, the amount of the compensation agreed upon or awarded shall be paid into the Supreme Court, with the privity of the Accountant of the Supreme Court, subject to further order. 3-4 Geo. V. c. 43, s. 327.

Compensa-
tion to
stand in
the stead
of land.

328. The compensation shall stand in the place of the land, and shall be subject to the limitations and charges, if any, to which the land was subject; and any claim to or incumbrance upon the land, or any part of it, as against the corporation, shall be converted into a claim upon the compensation. 3-4 Geo. V. c. 43, s. 328.

Interest on
compensa-
tion.

329.—(1) Where it is made to appear to a Judge of the Supreme Court that for any reason it is proper that the compensation should be paid into Court, the Judge may give leave to the corporation to pay it into Court, with interest at the rate of six per cent. per annum for six months.

Notice of
payment
into court.

(2) Notice of the payment into Court, and calling upon all persons entitled to the land, or any part of it, to file their claims to the compensation, or any part of it, shall be published in such newspaper and for such time as the Judge may direct.

Claims,
how deter-
mined.

(3) All claims to or upon the compensation shall be determined by a Judge of the Supreme Court or in such manner as he may direct.

Costs.

(4) The costs of the proceedings, including allowances to witnesses, shall be paid by the corporation or by such person as the Judge may direct.

Refund of
interest.

(5) If an order for distribution is obtained in less than three months from the payment into Court the Judge may direct a proportionate part of the interest to be returned to the corporation.

Payment
into court
to discharge
corporation.

(6) The payment into Court shall discharge the corporation from all liability in respect of the compensation. 3-4 Geo. V. c. 43, s. 329.

Order
vesting
land in
corporation.

330. After payment into Court of the compensation, a Judge of the Supreme Court may, upon the application of the corporation, make an order, vesting in the corporation

the land in respect of which the compensation was payable, and the order shall have the same effect as a vesting order made under the provisions of *The Judicature Act*. 3-4 Geo. V. c. 43, s. 330. Rev. Stat. c. 56.

331.—(1) Where the council of a city or town is desirous of entering upon any work or undertaking, for which land is required to be expropriated, or in the execution of which, land may be injuriously affected, the council may file, in the office of the clerk, plans and specifications of the work or undertaking, which shall show the names of the owners of the land to be affected, the land to be expropriated, and the nature and extent of any easement, or right in the nature of an easement, to be acquired, or certified copies of such plans and specifications. Taking, etc., lands for public work. Filing plans and specifications.

(2) The clerk shall cause to be served upon every owner of land to be expropriated, or which may be injuriously affected, a notice of the council's intention to proceed with the work or undertaking, and to expropriate the land necessary therefor, and that such plans and specifications may be inspected at his office, and that any claim for compensation on account of the land being injuriously affected must be filed in his office, with a statement of the amount claimed, within sixty days, or, if the person served resides out of Ontario, within ninety days, from the service of the notice. Service of notice of intention to construct works, etc. Filing of claim.

(3) If a claim is not so filed within the period mentioned in subsection 2, it shall be forever barred, unless, upon application to a Judge of the Supreme Court, made not later than one year from the service of the notice, and after seven days' notice to the corporation, the Judge allows the claim to be made. Claim not filed to be barred.

(4) Either party may appeal from the decision of the Judge to a Divisional Court. Appeal.

(5) Nothing in this section shall have the effect of barring a claim if the plans and specifications filed do not disclose or sufficiently disclose that the injury in respect of which the claim is made will be caused by the work or undertaking. Claims not barred where plans insufficient.

(6) This section shall not apply to the claim of an infant, a lunatic or a person of unsound mind, or where the expropriating by-law provides for acquiring an easement or right in the nature of an easement and the land is injuriously affected by the exercise of such easement or right. 3-4 Geo. V. c. 43, s. 331. For claims of infants, lunatics, etc.

PART XVI.

ARBITRATIONS.

332. The provisions of this Part shall be subject to *The Municipal Arbitrations Act*. 3-4 Geo. V. c. 43, s. 332.

Application of certain Acts. Rev. Stat. c. 199.

Rev. Stat. c. 65.

333. Except where otherwise provided, *The Arbitration Act* shall apply to an arbitration under this Act. 3-4 Geo. V. c. 43, s. 333.

In case
several per-
sons inter-
ested in
property
taken, etc.

334. In case of an arbitration as to compensation where more persons than one are interested, but have distinct interests in the land, whether or not they are all interested in the same parcel, or some or one in one part of it, and some or one in another part, the council may by the expropriating by-law or by any subsequent by-law provide that the claims of all such persons shall be determined by one and the same arbitration. 3-4 Geo. V. c. 43, s. 334.

Appoint-
ment of
arbitrators.

335.—(1) Subject to section 339 and to subsection 7 of this section where an arbitration is directed or authorized by this Act, either party may appoint his arbitrator, and give notice thereof in writing to the other party, calling upon him to appoint his arbitrator.

Service of
copy of
expropriat-
ing by-law.

(2) Where the arbitration is as to compensation and the notice is given by the corporation there shall be served with it a copy of the expropriating by-law, certified under the hand of the clerk and the seal of the corporation to be a true copy.

Manner of
appointing
arbitrator.

(3) The appointment of an arbitrator shall be in writing, and, in the case of a municipal corporation, shall be by by-law of the council, or by the head, or a member of the council, if authorized by by-law to make the appointment.

Appointment
of party
notified.

(4) The party notified, except in the case provided for by subsection 5, shall within seven days after service of the notice on him appoint his arbitrator and give notice to the other party of the appointment.

Where
several
persons
interested.

(5) In the case provided for by section 334 the persons interested shall within 21 days after service of the notice on them agree upon and appoint their arbitrator and give notice to the other party to the arbitration of the appointment.

Appointment
of third
arbitrator
by appointed
arbitrators.

(6) The arbitrators shall, within seven days from the appointment of the last appointed of them, appoint by writing a third arbitrator.

Where more
than two
municipali-
ties inte-
rested.

(7) Where more than two municipal corporations are interested, each shall appoint an arbitrator, and, if there is an equality of arbitrators, the arbitrators so appointed shall appoint another arbitrator, or in default at the expiration of twenty-one days after the last of such arbitrators was appointed, the Municipal Board may, on the application of any one of the corporations interested, appoint the other arbitrator. 3-4 Geo. V. c. 43, s. 335.

Appoint-
ment of
arbitrator
by Judge.

336.—(1) Except in the case provided for by subsection 7 of section 335, if an arbitrator is not appointed by the party notified within seven days, or in the case provided for

by section 334 within twenty-one days after notice to appoint an arbitrator, or, if the two arbitrators appointed do not, within seven days from the appointment of the last appointed one of them, appoint a third arbitrator, the Judge, on the application of either party, and on notice to the other, shall appoint as arbitrator, or third arbitrator, a fit person to act for the party who has failed to appoint, or as such third arbitrator.

(2) Where the arbitration is as to compensation the arbitrator appointed by the Judge shall not be a resident of the municipality in which the land is situate. 3-4 Geo. V. c. 43, s. 336. When resident of municipality not to be appointed.

337. The appointment of an arbitrator by a municipal corporation shall not be deemed to be an admission of any liability on its part, and all defences and objections that would be open in an action shall be open to either party. 3-4 Geo. V. c. 43, s. 337. Appointment of arbitrators not to be deemed an admission of liability.

338. No member, officer or person in the employment of a corporation which, and no person who, is concerned or interested in an arbitration, shall be appointed or act as an arbitrator, but no person shall be disqualified by reason merely that he is a ratepayer of a municipality concerned or interested in the arbitration. 3-4 Geo. V. c. 43, s. 338. Persons disqualified from acting as arbitrators.

339. Where the arbitration is as to compensation and the amount claimed does not exceed \$1,000, the same shall be determined by the Judge or by such person as he, on application to him by either the corporation or the claimant upon at least seven days' notice to the other, may appoint. 3-4 Geo. V. c. 43, s. 339. Arbitrator when claim under \$1,000.

PROCEDURE.

340.—(1) Every arbitrator, before proceeding with the reference, shall take and subscribe the following oath: Oath of arbitrators.

"I (A.B.) swear (or affirm) that I will well and truly try the matters referred to me by the parties, and a true and impartial award make in the premises, according to the evidence and my skill and knowledge."

(2) The omission of an arbitrator to take the oath shall not affect the validity of the award unless before the reference is begun objection is made to its being proceeded with on that account. 3-4 Geo. V. c. 43, s. 340. Effect of omission to take oath.

341.—(1) The arbitrators shall, within twenty days after the appointment of the last appointed arbitrator, meet at such place as they may agree upon and proceed with the reference, but may adjourn from time to time. Time of meeting, etc.

(2) A copy of the award shall be filed with the clerk of every municipality interested. 3-4 Geo. V. c. 43, s. 341. Filing copy of award.

Particulars
of claim to
be delivered.

342.—(1) In the case of a claim for compensation for damages for injuriously affecting land, the claimant, before the taking of evidence is begun, shall deliver to the corporation, and file with the arbitrators, particulars of his claim.

Amendment
of Claim.

(2) The arbitrators shall have the same power to amend the claim or the particulars as a Court would have in an action. 3-4 Geo. V. c. 43, s. 342.

Limit of
cumulative
evidence.

343. Where the arbitration is as to compensation, the arbitrators, in their discretion, may refuse to hear further evidence of a cumulative character upon any matter or question. 3-4 Geo. V. c. 43, s. 343.

Costs.

344.—(1) The arbitrators may award a fixed sum for costs or may award costs on the scale of the Supreme Court, or of the County Court, in which case they shall be taxed by the proper officer of the Court in the county or district in which the first meeting of the arbitrators was held, without any further order, and the amount shall be payable within one week after it is finally determined.

Taxation
of costs.

(2) The taxation, except where the costs are taxed by one of the taxing officers of the Supreme Court, shall be subject to revision by one of them, upon one week's notice, and such revision shall be subject to appeal as in the case of an appeal from a taxation of costs in an action. 3-4 Geo. V. c. 43, s. 344.

When an
appeal lies
from an
award.
Rev. Stat. c. 65.

345.—(1) An appeal shall lie from every award in like manner as an appeal lies under *The Arbitration Act* where the submission provides for an appeal from the award.

(2) Subsection 1 shall not apply where the submission is in writing, and it is not agreed by the terms of it that there may be an appeal from the award.

Power of
Supreme
Court
on appeal.

(3) On an appeal from an award the Supreme Court may call for and receive additional evidence to be taken in such manner as the Court directs, and may set aside the award or remit the matters referred or any of them, from time to time, for reconsideration and determination by the arbitrators, or may refer such matters or any of them to any other person, and may fix the time within which the further or new award shall be made, or may increase or diminish the amount awarded, or otherwise modify the award, as may be deemed just, and a Divisional Court shall have the like power and authority. 3-4 Geo. V. c. 43, s. 345.

Arbitrators
to file cer-
tificate
showing
time occu-
pied and
fees
charged.

346.—(1) Each of the arbitrators shall file with the clerk of the municipality a certificate showing the number of hours actually occupied by him in the reference, the number of hours occupied at each sitting, and the date of and the fees charged by him for each sitting.

(2) Any party to the reference may pay to the Clerk of the County or District Court of the county or district in which the first meeting of the arbitrators was held the fees demanded by the arbitrators, together with \$10 as security for the costs of the taxation of such fees, and the clerk shall give a receipt in duplicate for the same, and shall enter the payment in a book to be kept by him for the purpose, and he shall be entitled to receive to his own use from such party, when the sum paid does not exceed \$50, a fee of fifty cents, and when the sum paid exceeds \$50 a fee of \$1, and upon production and delivery of one of the duplicates the arbitrators shall deliver the award to the person producing the duplicate. 3-4 Geo. V. c. 43, s. 346.

Payment of arbitrators' fees on taking up award.

347. Where the arbitration is as to compensation, if the expropriating by-law did not authorize or profess to authorize any entry on or use to be made of the land before the award, except for the purpose of survey, or if the by-law gave or professed to give such authority, but the arbitrators by their award find that it was not acted upon, the award shall not be binding on the corporation, unless it is adopted by by-law, within three months after the making of the award; and if it is not so adopted, the expropriating by-law shall be deemed to be repealed, and the corporation shall pay the costs between solicitor and client of the reference and award, and shall also pay to the owner the damages, if any, sustained by him in consequence of the passing of the by-law, and such damages if not mutually agreed upon shall be determined by arbitration. 3-4 Geo. V. c. 43, s. 347.

Award not to be binding in certain cases unless adopted by by-law.

PART XVII.

ACTIONS BY AND AGAINST MUNICIPAL CORPORATIONS.

348. Where a duty, obligation, or liability is or has been heretofore imposed by statute upon any person in favour of a municipal corporation, or the inhabitants, or some of the inhabitants of a municipality, or where a contract or agreement is or has heretofore been entered into, which imposes such a duty, obligation, or liability, the corporation shall have the right by action to enforce it, and to obtain as complete and as full relief and remedy as could be obtained in an action by the Attorney-General, as plaintiff, or as plaintiff on the relation of any person interested, or in an action by such inhabitants or one or more of them, on his or their own behalf, or on behalf of himself or themselves and of such inhabitants. 3-4 Geo. V. c. 43, s. 348.

Right of action of municipal corporation to enforce agreements, etc.

349. An action shall not be brought for anything done under a by-law, order or resolution of a council which is invalid, in whole or in part, until one month after the by-

Corporation to be liable for acts done under illegal by-law.

law, order or resolution, or so much of it as is invalid, has been quashed or repealed, and every such action shall be brought against the corporation alone, and not against any person acting under the by-law, order or resolution. 3-4 Geo. V. c. 43, s. 349.

PART XVIII.

RESPECTING THE ADMINISTRATION OF JUSTICE.

JUSTICES OF THE PEACE.

Certain persons to be *ex-officio* Justices of the Peace.

350. The head of every council, the reeve of every town, and every deputy reeve, after he has made the declarations of office and qualification, shall, *ex officio*, be a Justice of the Peace for the whole county, and every controller and alderman in a city, after he has made such declarations, shall be, *ex officio*, a Justice of the Peace for the city. 3-4 Geo. V. c. 43, s. 350.

Justice may act although member of council.

351. A Justice of the Peace shall not be disqualified from acting in the case of a prosecution for a breach of a by-law of a council,

- (a) By reason of his being a member of the council; or
- (b) Because the penalty or part of it goes to the corporation of a municipality of which he is a rate-payer. 3-4 Geo. V. c. 43, s. 351.

POLICE OFFICE IN CITIES AND TOWNS.

Police office.

352. The council of every city and town shall establish and maintain therein a Police Office. 3-4 Geo. V. c. 43, s. 352.

Police magistrate to attend daily.

353.—(1) The Police Magistrate, or, if he is absent or ill, or if there is a vacancy in the office, the Deputy Police Magistrate, shall attend at the Police Office daily for such period as may be necessary for the disposal of the business to be done.

Mayor to attend where no police magistrate.

(2) In a town for which there is not a Police Magistrate the Mayor shall attend at the Police Office daily, or at such time and for such period as may be necessary for the disposal of the business that may be brought before him as a Justice of the Peace.

Case of illness or absence of police magistrate.

(3) In a city or town for which there is a Police Magistrate, if he is absent or ill, and there is no Deputy Police Magistrate, or if the Deputy Police Magistrate is also absent or ill, the Mayor shall attend in the place of the Police Magistrate, but shall have only the powers of a Justice of the Peace.

(4) A Justice of the Peace having jurisdiction in a city or town may, at the request of the Mayor, act in his stead. When Justice may act.

(5) The council shall provide all necessary and proper accommodation, fuel, light, stationery and furniture for the Police Office, and for the officers connected with it. Accommodation, etc., for police office.

(6) The clerk of the council of the city or town, or such other person as the council appoints for that purpose, shall be the clerk of the Police Office, and shall perform the same duties and receive the same fees and emoluments as a clerk of a Justice of the Peace. Clerk of police office and his duties.

(7) Where the clerk of the council is paid by a salary, the fees and emoluments shall be paid over by him and belong to the corporation. If paid by salary, fees to belong to corporation.

(8) Where there is a Police Magistrate, the clerk of the Police Office shall be under his control. 3-4 Geo. V. c. 43, s. 353. Clerk to be under control of magistrate.

BOARDS OF COMMISSIONERS OF POLICE AND POLICE FORCE IN CITIES AND TOWNS.

354.—(1) Notwithstanding the provisions of any special Act, there shall be for every city, and there may be constituted by the council thereof for every town having a Police Magistrate, a Board of Commissioners of Police. Constitution of Board.

(2) The Board shall consist of the Mayor, a Judge of the County or District Court of the county or district in which the city or town is situate, and the Police Magistrate. Who to be members.

(3) If there are two or more Judges for the county or district, the Lieutenant-Governor in Council shall designate the Judge who is to be a member of the Board. Designating judge where more than one.

(4) If the Police Magistrate is absent from Ontario, the Deputy Police Magistrate shall act in his stead during his absence. Absence of police magistrate.

(5) If the office of Judge or that of Police Magistrate is vacant, the council shall fill the vacancy on the Board by appointing a resident of the municipality to act during the vacancy. Vacancy in office of judge or police magistrate.

(6) In case of the illness or absence from Ontario of the Mayor, or of the office being vacant, the person appointed as presiding officer of the council shall act instead of the Mayor. Illness or absence of mayor.

(7) The council of a city may provide for the payment of a reasonable remuneration for his services as a member of the Board to the Judge, or to any person appointed to fill the vacancy while the office of Judge or Police Magistrate is vacant. Remuneration of judge, etc.

Repeal of
by-law
constituting
board.

(8) The by-law of the council of a town may at any time be repealed, and, if repealed, the Board shall, on the first day of January next after the passing of the repealing by-law, be dissolved.

(9) Subsection 8 shall also apply to a Board constituted before the 24th day of March, 1874, and existing on that day. 3-4 Geo. V. c. 43, s. 354.

Board may
examine
witnesses
on oath.

355.—(1) The Board shall have the same power to summon and examine witnesses on oath as to any matter connected with the execution of its duties, to enforce their attendance, and to compel them to give evidence as is vested in any Court of law in civil cases.

Force of
notice to
attend be-
fore Board.

(2) It shall be the duty of every person served with a notice to attend before the Board, signed by a member of it, to attend pursuant to the notice, and the notice shall have the same effect as a subpoena. 3-4 Geo. V. c. 43, s. 355.

Chairman.

356.—(1) The Board shall, in each year, at its first meeting held after the Mayor has made the declarations of office and qualification, elect a chairman.

Quorum.

(2) A majority of the members of the Board shall constitute a quorum.

Meetings
in cities to
be open to
public.

(3) The meetings of the Board shall be open to the public, unless otherwise directed by the Board. 3-4 Geo. V. c. 43, s. 356.

How by-law
of Board
authenti-
cated and
proved.

357.—(1) A by-law of the Board shall be sufficiently authenticated if signed by its chairman or acting chairman, and a by-law purporting to be so signed shall be received in evidence in all courts without proof of the signature.

(2) A copy of a by-law purporting to be certified by a member of the Board to be a true copy shall be received in evidence in all Courts without proof of the signature. 3-4 Geo. V. c. 43, s. 357.

HIGH BAILIFF AND POLICE FORCE.

High
bailiffs.

358. The council of every city shall appoint a high bailiff but may provide that the offices of high bailiff and chief constable shall be held by the same person. 3-4 Geo. V. c. 43, s. 358.

Police
force in
cities and
towns.

359. The police force in cities and in towns having a Board of Commissioners of Police shall consist of a chief constable and as many constables and other officers and assistants as the council may deem necessary, but, in cities, not less than the Board reports to be absolutely required. 3-4 Geo. V. c. 43, s. 359.

360. The members of the police force shall be appointed by and hold office during the pleasure of the Board, and shall take and subscribe an oath similar to that set out in section 20 of *The Constables Act*. 3-4 Geo. V. c. 43, s. 360. Appointment of members of police force. Rev. Stat. c. 94.

361. The Board may make regulations for the government of the police force, for preventing neglect or abuse, and for rendering it efficient in the discharge of its duties. 3-4 Geo. V. c. 43, s. 361. Board to make regulations.

362. The members of the police force shall be subject to the government of the Board and shall obey its lawful directions. 3-4 Geo. V. c. 43, s. 362. Police officers to be subject to the Board.

363.—(1) The council shall appropriate for and pay such remuneration to the members of the police force as the Board may determine, and shall provide and pay for all such offices, watch-houses, watch-boxes, arms, accoutrements, clothing and other things as the Board may deem requisite and require for the accommodation, use and maintenance of the force. Remuneration of police officers.

(2) The council may pay any sum required for the protection, defence or indemnification of any member of the police force, where an action or prosecution is brought against him, and costs are necessarily incurred or damages are recovered, if the Board certifies that the case is a proper one for such payment or indemnity. 3-4 Geo. V. c. 43, s. 363. Indemnifying police officers.

364. The council of every town not having a Board shall, and the council of every village may, appoint one chief constable and one or more constables. 3-4 Geo. V. c. 43, s. 364. Constables in towns and villages.

365. The council of a county and of a township may appoint one or more constables. 3-4 Geo. V. c. 43, s. 365. County and township constables.

366.—(1) The members of a police force, the high bailiffs and the constables appointed under the authority of this Part shall have the same powers and privileges, be subject to the same liability, perform the same duties, be subject to suspension in the same manner, and may act within the same limits, as a constable appointed by the Court of General Sessions of the Peace. Powers of police officers, constables, etc.

(2) The provisions of subsection 1, as to suspension, shall not apply to a member of the police force of a city or town which has a Board of Commissioners of Police. 3-4 Geo. V. c. 43, s. 366.

367. The members of a police force, a high bailiff, a chief constable and the constables appointed under this Part shall be charged with the duty of preserving the peace, preventing robberies, and other crimes and offences, including offences against the by-laws of the municipality, and of apprehending offenders, and laying information before the proper tribunal, Duties of police officers, constables, etc.

and prosecuting and aiding in the prosecution of offenders. 3-4 Geo. V. c. 43, s. 367.

[*As to appointment of High Constable by county, see The Constables Act, Rev. Stat. c. 94, s. 8.*]

Salary and remuneration.

368.—(1) The council by which a high bailiff, chief constable or a constable is appointed under the authority of this Part may provide for the payment to him of such salary or remuneration as the council may determine.

Fees of salaried constable.

(2) The council may agree with a salaried constable appointed either by the council or by the Board of Commissioners of Police that he shall keep for his own use the fees of his office or may require them to be paid to the treasurer for the use of the corporation. 3-4 Geo. V. c. 43, s. 368.

Arrests without warrant by constables for alleged breaches of the peace.

369. Where any person complains to the chief constable or a constable of a city or town that a breach of the peace has been committed, and that officer has reason to believe that it has been committed, though not in his presence, and that there is good reason to apprehend that the arrest of the person charged with committing it is necessary to prevent his escape or a renewal of the breach of the peace, or immediate violence to person or property, if the person complaining gives satisfactory security to the officer that he will, without delay, appear and prosecute the charge the officer may, without warrant, arrest or cause to be arrested the person charged in order to his being brought as soon as conveniently may be before the police magistrate or a justice of the peace to be dealt with according to law. 3-4 Geo. V. c. 43, s. 369.

When mayor or police magistrate may suspend constable.

370.—(1) If there is no Board of Commissioners of Police for a town, the Mayor or the Police Magistrate may suspend from office, for any period in his discretion, the chief constable or any constable of the town and may appoint some other person to the office during such period; and, if he considers the suspended officer deserving of dismissal, he shall, immediately after suspending him, so report to the council, and the council may dismiss such officer or may direct him to be restored to his office after the period of suspension has expired.

Incapacity of such officer to act. Salary to cease.

(2) During suspension the officer shall not act except with the written permission of the Mayor or Police Magistrate who suspended him or be entitled to any salary or remuneration. 3-4 Geo. V. c. 43, s. 370.

COURT HOUSES, GAOLS, ETC.

Establishment.

Existing county and district towns continued.

371. Until otherwise provided by law the existing county and district towns shall continue to be the county and district towns of the counties and districts in which they are respectively situate. 3-4 Geo. V. c. 43, s. 371.

372.—(1) The corporation of every county shall provide and maintain a County Court House and a County Gaol.

County to provide court house and gaol. Sufficient for county and city.

(2) The Court House and the Gaol shall be sufficient for the purposes of every city and separated town which forms part of the county for judicial purposes as well as for the purposes of the county.

(3) The Gaol shall be provided and maintained in conformity with the provisions of *The Gaols Act*, and to the satisfaction of the Lieutenant-Governor in Council.

Maintenance of gaol. Rev. Stat. c. 293.

(4) Subsection 2 shall not apply to the Court House if the city has a Court House of its own, or to the Gaol if the city has a gaol of its own. 3-4 Geo. V. c. 43, s. 372.

373.—(1) The council of a county or of a city may pass by-laws for erecting, enlarging or improving a court house or gaol, and shall keep the same in repair and provide the food, fuel and other supplies required therefor.

County council may pass by-laws as to county buildings.

(2) The corporation of a county may acquire land within a city or separated town which is the county town for the purpose of erecting and may erect thereon a court house, a gaol and buildings for use as a county hall and for offices for the county officials. 3-4 Geo. V. c. 43, s. 373.

Acquiring land for court houses.

374. The court house and gaol of the county in which a city or separated town is situate shall, except where the city has provided one for itself, be the court house or gaol, as the case may be, of the city or town, and the sheriff and gaoler shall receive and safely keep, until duly discharged, all persons committed to the gaol by any competent authority of the city or town. 3-4 Geo. V. c. 43, s. 374.

Gaols and court houses in counties and cities, etc., not separated.

Care of Court Houses and Gaols.

375.—(1) The sheriff shall have the care of the county gaol, gaol offices and yard, and gaoler's apartments, and the appointment of the gaoler and officers of the gaol, whose salaries shall be fixed by the county council, subject to the revision or requirement of the Inspector of Prisons and Public Charities.

Custody of gaols. Keepers.

(2) The appointment or dismissal of a gaoler shall be subject to the approval of the Lieutenant-Governor in Council. 3-4 Geo. V. c. 43, s. 375.

Appointment and dismissal of gaolers.

376. A gaoler or an officer of the gaol shall not demand or receive any fee, perquisite or other payment from any prisoner. 3-4 Geo. V. c. 43, s. 376.

Gaoler not to accept fees.

377.—(1) The county council shall have the care of the court house and of all offices, rooms and grounds connected therewith, whether the court house is a separate building or is connected with the gaol, and the appointment of the care-

County council to have care of court house, etc.

takers thereof, and shall, from time to time, provide all necessary and proper accommodation, fuel, light, stationery and furniture for the Provincial Courts of Justice, other than the Division Courts, and for the library of the Law Association of the county, such last mentioned accommodation to be provided in the court house, and proper offices, together with fuel, light, stationery and furniture, and, when certified by the Attorney-General to be necessary, with type-writing machines, for all officers connected with such Provincial Courts, other than the Crown Attorney of the City of Toronto. (*As to Division Courts, see Rev. Stat. c. 63.*)

(2) The council of the Corporation of the City of Toronto shall provide proper offices, with fuel, light, stationery and furniture for the Crown Attorney of the City.

Liability
for furni-
ture for use
of county
officials.

(3) A corporation shall not be liable to pay for furniture unless it has been ordered by the council or by some person authorized by it so to do. 3-4 Geo. V. c. 43, s. 377.

City gaols
to be regu-
lated by
by-laws of
city council.

378. The care of the gaol or court house of a city shall be regulated by by-law of its council. 3-4 Geo. V. c. 43, s. 378.

Costs and Expenses of Court Houses and Gaols.

Liability of
cities and
towns sep-
arated from
counties for
erection and
main-
tenance
of court
house, etc.
Rev. Stat.
c. 124.

379.—(1) A city or a separated town shall, as part of the county for judicial purposes, so long as the county court house or gaol is also that of the city or separated town, bear and pay its just share or proportion of all charges and expenses from time to time incurred for the purposes mentioned in section 23 of *The Registry Act*, and in erecting, enlarging, improving, repairing or maintaining such court house or gaol, and of their proper lighting, cleaning and heating; of drafting, selecting, enrolling and paying jurors; in providing the accommodation and other matters mentioned in subsection 1 of section 377, and of all other charges relating to the administration of justice, except such as the county is entitled to be repaid by the Province, and except charges connected with coroners' inquests and constables' fees and disbursements.

Allowance
to county
for use of
court house
for division
courts.

(2) The use of the court house for the sittings of a Division Court of a Division which comprises the whole or a part of a city or separated town may be taken into account in determining the amount to be paid by the city or town for the maintenance of the court house.

Reference
to arbitra-
tion in
case of dis-
agreement.

(3) If the council of the city or separated town and the council of the county are unable to agree as to the amount to be paid by the city or town, the same shall be determined by arbitration.

(4) The council of a county and of a city or separated town situate in the county may agree: Purchase of land and erection of buildings for municipal and judicial purposes.

(a) To acquire land within the county town for the purpose of erecting thereon buildings for the joint use of the county and city or town for municipal and judicial purposes;

(b) For the erection, maintenance, use, management and control of such buildings;

(c) For fixing the amount which each corporation shall pay or contribute for such purposes;

(d) For the subsequent disposition of such land and buildings, and of any insurance or other money that may be received in respect thereof;

and may pass all such by-laws as may from time to time be necessary for acquiring the land and carrying out the agreement. 3-4 Geo. V. c. 43, s. 379.

As to payment of expenses of shorthand writer and interpreter, see The County Judges Act, Rev. Stat. c. 58, ss. 18 (5), 19.

As to payment by city or separated town of proportion of certain expenses under The Registry Act, see that Act, Rev. Stat. c. 124, s. 8.

380. Where the court house, gaol or registry office was erected before the city or town ceased to be part of the county for municipal purposes the arbitrators may take into account in determining the amount to be paid by the city or town the value of the respective interests of the county and of the city or town in such building and the extent of the use of it by them respectively. 3-4 Geo. V. c. 43, s. 380. What arbitrators to take into account.

381. The corporation of a county, city or separated town shall have, respectively, insurable interests in the county court house and gaol, and the furniture thereof, in the proportions in which they are, for the time being, liable to contribute under section 379. 3-4 Geo. V. c. 43, s. 381. Insurable interests of corporations in certain cases.

382. Where a city is required to contribute to the cost of erecting, enlarging or improving a county court house or gaol, such city shall not be bound to pay for any part of the expenditure, unless it has been concurred in by its council, or, if the council does not concur, the propriety and the amount of the expenditure has been determined by arbitration. 3-4 Geo. V. c. 43, s. 382. Liability of city to contribute to cost of erecting court houses and gaols.

383. The site of the court house or gaol shall be determined by arbitration unless the councils of the county and city agree as to the site. 3-4 Geo. V. c. 43, s. 383. Site for court house or gaol.

Compensation by city or town for use of court house, etc.

384.—(1) A city which uses the county court house or gaol and a separated town shall pay to the county such compensation therefor, and for the care and maintenance of prisoners, as may be mutually agreed upon or determined by arbitration.

Matters to be considered in determining compensation.

(2) In determining the compensation to be paid for the care and maintenance of prisoners, the arbitrators shall, so far as they deem the same just and reasonable, take into consideration the original cost of the site and erection of the gaol and gaol buildings and of repairs and insurance, so far as they have been borne by one or other of the municipalities, and the cost of maintaining and supporting the prisoners, as well as the salaries of all officers and servants connected therewith. 3-4 Geo. V. c. 43, s. 384.

When the amount of compensation may be reconsidered.

385. After five years from the time when the amount of the compensation was agreed upon or determined by arbitration, either under section 379 or after a direction by the Lieutenant-Governor in Council under the authority of this section, the Lieutenant-Governor in Council, upon the application of either corporation, may direct that the existing arrangement shall cease after a day to be named and that the compensation to be paid from that day shall be settled by agreement or be determined by arbitration. 3-4 Geo. V. c. 43, s. 385.

Lock-up houses.

386.—(1) The council of every local municipality may establish, maintain and regulate lock-up houses for the detention and imprisonment of persons sentenced to imprisonment therein for not more than ten days, and of persons detained for examination on a charge of having committed any offence, or for transfer to any common gaol for trial, or in the execution of any sentence; and such persons may be lawfully received and so detained in the lock-up.

Joint lock-up houses.

(2) Two or more local municipalities may unite in establishing, maintaining and regulating a lock-up house, and such lock-up house shall be deemed to be the lock-up house of each of them.

Constable in charge.

(3) Every lock-up house shall be placed in the charge of a constable appointed for that purpose.

Salary.

(4) The council may provide for and pay the salary or other remuneration of the constable in charge of a lock-up. 3-4 Geo. V. c. 43, s. 386.

Payment to be made to county when gaol used as a lock-up.

387.—(1) If a county town has not a lock-up house, approved by the Inspector of Prisons and Public Charities, the county gaol may be used for the purposes of a lock-up house, and if so used the corporation of the county town shall pay yearly to the county treasurer for the use of the county a reasonable sum for the use of the gaol as a lock-up house, and for the expenses incurred by such use; and, in case of

disagreement, the amount to be paid to the county shall be determined by arbitration.

(2) This section shall not apply to cities or separated towns. 3-4 Geo. V. c. 43, s. 387.

388. The cost of conveying a prisoner to, and of keeping him in a lock-up house, shall be defrayed in the same manner as the expense of conveying a prisoner to and keeping him in a common gaol of the county. 3-4 Geo. V. c. 43, s. 388. Expense of keeping prisoners in lock-up.

Section 409 of 29-30 V. c. 51 (See 36 V. c. 48, s. 367, R. S. O. 1877, c. 174, s. 449, 46 V. c. 18, s. 476 and R. S. C. 1896, Sched. B.), which is not repealed, is as follows:—

409. Any Justice of the Peace of the county may direct by warrant in writing under his hand and seal the confinement in a lock-up house within his county, for a period not exceeding two days, of any person charged on oath with a criminal offence, whom it may be necessary to detain until examined, and either dismissed or fully committed for trial to the common gaol, and until such person may be conveyed to such gaol; also the confinement in such lock-up house, not exceeding twenty-four hours, of any person found in a public street or highway in a state of intoxication or any person convicted of desecrating the Sabbath; and generally may commit to a lock-up house instead of the common gaol or other house of correction, any person convicted on view of the justice, or summarily convicted before any justice or justices of the peace of any offence cognizable by him or them, and liable to imprisonment therefor under any statute or municipal by-law. 29-30 V. c. 51, s. 409. When liable to confinement in lock-up.

INEBRIATE ASYLUMS.

389.—(1) The council of a city having a population of not less than 50,000 may: Institutions for reclamation of habitual drunkards.

(a) Establish, erect and maintain within the city an institution for the reclamation and cure of habitual drunkards;

(b) Provide that the Mayor, Police Magistrate, or any Justice of the Peace having jurisdiction in the municipality, may send or commit to such institution an habitual drunkard, with or without hard labour.

(2) Sections 62 to 70 of *The Private Sanitarium Act* shall apply to such institution. 3-4 Geo. V. c. 43, s. 389. Rev. Stat. c. 296.

COMMITTAL TO INDUSTRIAL FARM.

390. Where a person is convicted of being found drunk or disorderly in a public place contrary to a municipal by-law, within three months after a prior conviction for a like offence, he may be committed by the Police Magistrate or Justice of the Peace, before whom he is convicted, to an Industrial Farm of the locality in which the order for committal is made for an indeterminate period not exceeding two years. 3-4 Geo. V. c. 43, s. 390. Committal to Industrial Farm for indeterminate period.

PART XIX.

POLLING SUBDIVISIONS AND POLLING PLACES.

Polling sub-
divisions
and places.

391. By-laws may be passed by the councils of local municipalities for dividing the wards of the city or town, or the village or township into two or more convenient polling subdivisions, and for establishing polling places therein.

Boundaries
of polling
sub-divi-
sions.

- (a) Except in cities, every polling subdivision shall have well-defined boundaries, such as streets, side-lines, concession lines or the like, and shall be formed in the most convenient manner, and so that the number of electors in each polling subdivision shall be as nearly as possible equal.

Number of
electors in a
subdivision.

- (b) Such polling subdivisions shall be made or varied whenever the number of the electors in any polling subdivision in a city having a population of not less than 100,000 exceeds 200, and in any other municipality 300, in such a manner that the number in any polling subdivision shall not exceed 300.

Not to be in
more than
one electoral
district.

- (c) Where a municipality embraces parts of two or more electoral districts, a polling subdivision shall include territory in one electoral district only.

Alteration
of sub-
divisions.

- (d) Subject to clause (f), any alteration of polling subdivisions, or creation of new polling subdivisions, shall be made before the publication of the voters' lists.

Duty of
clerk when
population
exceeds
limit.

- (e) Whenever the clerk finds that the number of electors in a polling subdivision exceeds 200 in a city having a population of not less than 100,000, or 300 in any other municipality, he shall notify the council of the fact.

Changes
made after
voters' list
made up.

- (f) Where such alterations have not been made before the publication of the voters' lists, they shall be made forthwith thereafter, but shall not take effect until the next voters' lists are being prepared.

New sub-
division to
be made
when neces-
sary.

- (g) Whenever the council is of opinion that the convenience of the electors will be thereby promoted the council may make a redivision into polling subdivisions, and such redivision shall be made in conformity with this section.

Determining
number of
electors.

- (h) The number of electors shall be determined by the last revised assessment roll of the municipality.

Subdivi-
sions to be
numbered.

- (i) The polling subdivisions shall be numbered consecutively, and a copy of the by-law, by which they are established, certified under the seal of the cor-

puration and the hand of the clerk to be a true copy, shall, forthwith after the passing thereof, be filed by the clerk in the office of the Clerk of the Peace of the county or district in which the municipality is situate.

- (j) Any 5 electors may at any time within two months Appeal.

after such filing appeal in respect of any polling subdivision to the Judge of the county or district Court of the county or district who shall have power to amend the by-law so as to make it conform with the provisions of this section, and the procedure on the appeal shall be the same as on a motion to quash a by-law, except that no recognition or deposit shall be required.

- (k) An election shall not be irregular or void or void- Election not to be able for the reason that a polling subdivision voided if which contains more than the prescribed number subdivision is wrongly of electors has not been divided, if in the case of formed. a city having a population of not less than 100,000 it does not contain more than 300, or in the case of any other municipality more than 400 electors.

- (l) Where a polling subdivision in a city having a Subdivision for election about to be held. population of not less than 100,000 contains more than 300 electors, or a polling subdivision in any other local municipality contains more than 400 electors, or where a local municipality is not subdivided into polling subdivisions the council shall for the purpose of an election about to be held or a vote about to be taken subdivide it into as many subdivisions as may be necessary to provide in the case of such a city one for every 200 electors, and in the case of any other local municipality one for every 300 electors. 3-4 Geo. V. c. 43, s. 391.

392. By-laws may be passed by the councils of urban Uniting polling subdivisions. municipalities for uniting for the purpose of any municipal election, including the election of school trustees, or the voting on a by-law or on a question submitted to the electors, any two adjoining polling subdivisions with one polling place therefor. 3-4 Geo. V. c. 43, s. 392.

393. By-laws may be passed by the councils of cities having a population of not less than 100,000, for providing that Using public school for polling places. a public school house or a public building belonging to or controlled by the corporation in, or conveniently near to a polling subdivision, shall be used as the polling place of such subdivision.

- (a) Where a school house is so used the council shall Payment therefor. forthwith pay to the Board of Education a sum

sufficient to cover any damage done to it and any expense for cleaning or otherwise caused by such use.

Consent of public school board.

(b) No school house shall be so used without the consent of the Board of Education.

Constable to attend each such polling place.

(c) The board of commissioners of police or the chief constable shall cause a constable to attend at each polling place in a school house or public building in which an election is being held there to perform the duties required by this Act of a constable appointed by the returning officer. 3-4 Geo. V. c. 43, s. 393.

In certain cases clerk may choose polling place.

394. Where a polling place has been appointed for holding an election, or for taking a vote in a local municipality, and it is afterwards found that the building cannot be obtained, or is unsuitable for the purpose, the clerk may select in lieu of it the nearest suitable building which is available, and he shall post up and keep posted up a notice on the building named in the by-law, and in two other conspicuous places near by, directing the voters to the place so selected. 3-4 Geo. V. c. 43, s. 394.

PART XX.

POWERS OF MUNICIPAL COUNCILS.

Interpretation.

Bonus defined.

395. "Bonus" where it occurs in sections 278, 288, 396 and 397 shall include:—

- (a) A grant of money as a gift or a loan, either conditionally or unconditionally.
- (b) The guaranteeing of the repayment of money loaned to or the payment of a debt contracted by the person to whom the bonus is granted and the interest thereon.
- (c) The gift or the leasing at a nominal rent of land owned by the corporation or the purchase of land as a site for buildings or works or as a means of access or for any other purpose connected with the manufacturing business to be aided.
- (d) The stopping up, opening, widening, paving or improving of a highway or public place or the undertaking of any work or improvement which involves the expenditure of money by the corporation for the use or benefit of the manufacturing business to be aided.

- (e) The supplying of water, light or power by the corporation either free of charge or at a less rate than that charged to other persons.
- (f) The total or partial exemption from municipal taxation or the fixing of the assessment of any property.
- (g) Generally the doing, undertaking or suffering on the part of the corporation of any act, matter or thing which involves or may involve the expenditure of money by it. 3-4 Geo. V. c. 43, s. 395.

Bonuses in Aid of Manufactures.

396. By-laws may be passed by the councils of all municipalities for granting a bonus for the promotion of manufactures in the municipality, or for the promotion of iron works, rolling mills, works for refining or smelting ore, or the establishment of grain elevators, or aiding a beet sugar factory, within the municipality or an adjacent municipality, to such person, in respect of such branch of industry and on such terms and conditions as to security and otherwise as may be deemed proper.

- (a) No person to whom or who is interested in or holds shares in a company and no nominee of a corporation to which a bonus is to be granted shall be entitled to vote on the by-law. Shareholders not to vote on by-law.
- (b) No by-law shall be passed granting a bonus in respect of a branch of industry of a similar nature to one established in the municipality unless the person by whom it is carried on consents in writing to the granting of the bonus. Industry not to be aided where one of like nature established.
- (c) No by-law shall be passed granting a bonus in respect of a business established elsewhere in Ontario, or which has been removed to the municipality from another municipality in Ontario, whether the business is to be carried on by the same person or by a person deriving title or claiming through or under him or otherwise or by such person in partnership with another person or by a joint stock company or otherwise. Bonus not to be granted to industry already established elsewhere in Ontario.
- (d) No such by-law shall be passed where the granting of the bonus would for its payment and the payment of bonuses already granted require an annual levy for the payment of principal and interest exceeding 10 per cent. of the total amount required to be raised by taxation for the year next preceding the passing of the by-law, but if the bonus is by way of loan or guarantee, any amount to be repaid during the then current year Limitation of power to bonus.

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shall be deducted from the amount of the bonus for the purpose of ascertaining whether the limit of 10 per cent. will be exceeded.

Period of exemption or fixed assessment.

- (e) Where the bonus is exemption from taxation or a fixed assessment the same shall not be for a longer period than ten years, but may be renewed from time to time for further periods not exceeding ten years at any one time, and the by-law shall not apply to or affect taxation for school purposes.

Applying payments made by persons bonused in payment of debentures and interest.

- (f) Where the bonus is by way of loan, the by-law may provide that all money received on account of the loan shall be deposited to a special account in a chartered bank, and that such money, or a sufficient part of it, shall be applied in payment of the amount falling due in such year for principal and interest on account of debentures issued to pay the bonus. 3-4 Geo. V. c. 43, s. 396.

Bonuses in Aid of Railways.

Interpretation.

397.—(1) In this section

"Railway."

- (a) "Railway" shall include a railway operated by steam, electrical or other motive power and a street railway;

"Railway company."

- (b) "Railway company" shall include a person authorized by a special Act to construct a railway, and shall also include a railway company incorporated by or under the authority of the Parliament of Canada or of the late Province of Canada or of this Legislature.

Power to aid railways.

(2) By-laws may be passed by the councils of all municipalities for granting a bonus to a railway company for the purpose of securing the construction of a railway in the construction of which the inhabitants of the municipality are interested or through any part of or near to which the railway will pass or the works of the company be situate.

Petition to council requiring submission of by-law to electors.

(3) Upon presentation to the council of a petition expressing the desire to aid the railway company and stating in what way and to what amount signed by a majority of the members of the council, or in the case of a county by at least fifty resident freeholders qualified to vote on the by-law, of each of the local municipalities in the county, or in the case of a local municipality by at least 50 resident freeholders thereof qualified to vote on the by-law, the council shall, within six weeks after the receipt of the petition by the clerk, take the requisite proceedings for submitting, in the manner provided by this Act, a by-law for granting the bonus for the assent of the electors qualified to vote thereon.

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(4) Where the aid is proposed to be given by a county, if a petition signed by 50 resident freeholders of the county against submitting the by-law on the ground that certain of the local municipalities or parts of them would be injuriously affected thereby or on any other ground ought not to be included therein, and if a sum sufficient to defray the expense of the reference is deposited by the petitioners with the treasurer of the county, the council shall forthwith refer the petition to The Municipal Board.

Reference to Municipal Board of petition against submission of by-law.

(5) The Board may direct that the prayer of the petition be not granted, or that any of the local municipalities or any part of them or any of them shall be excluded from the operation of the by-law, and that the by-law be amended accordingly.

Powers of Board to require amendment of by-law, etc.

(6) Where the Board directs that the by-law be amended by excluding the whole or any part of a local municipality from the operation of it, the by-law shall be amended by imposing the rate to provide for the payment of the bonus or of the principal and interest of the debentures issued therefor on the rateable property within that part of the county not so excluded and that only, and the assent to the by-law of those persons qualified to vote on it in that part of the county not so excluded shall be sufficient, and they shall be the only persons entitled to vote on the by-law.

Levy of rates where part of county excluded from operation of by-law.

(7) The by-law as confirmed by the Board or amended by its direction shall, at the option of the railway company, be submitted by the council for the assent of the electors qualified to vote thereon.

Option of company as to submission of amended by-law.

(8) If the prayer of the petition is not granted by the Board, the expense of the reference shall be borne by the petitioners, and if the Board directs the by-law to be amended by excluding any part of the county from the operation of the by-law shall be borne by the railway company or by the corporation of the county or in such proportions between them as the Board may direct.

Expenses of reference—how borne.

(9) The council may require that before submitting the by-law for the assent of the electors the railway company shall deposit with the treasurer of the municipality a sum sufficient to defray the expense of its submission.

Company may be required to pay expenses of submitting by-law.

(10) If the by-law receives the assent of the electors the council shall, within four weeks from the day on which the vote was taken, pass the by-law.

Requirements as to passing by-law.

(11) Unless otherwise provided by the by-law, the debentures, the issue of which is provided for by it, shall be issued and disposed of or delivered to the trustees appointed to receive them as hereinafter provided.

Disposal of debentures.

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Extension
of time for
commence-
ment or
completion
of railway.

(12) Where the period within which the construction of the railway or other work is to be commenced or to be completed is provided for in the by-law, the council may by by-law or resolution from time to time extend such period, but no extension shall be for longer than one year at a time.

Limit of
two cents
not to in-
clude
bonuses to
railways.

(13) A bonus may be granted or shares may be subscribed for under the authority of this section notwithstanding that the yearly municipal taxation may be thereby increased beyond the limit provided for by section 297, if it does not require the levying of an annual rate for all purposes, exclusive of school rates, greater than three cents in the dollar.

Bonuses by
sections of
township.

(14) By-laws may be passed by the councils of townships for granting a bonus for any of the purposes mentioned in subsection 2 by a section of the township, and in that case the rates imposed by the by-law to provide for the payment of the bonus or the principal and interest of the debentures issued therefor shall be imposed upon the rateable property within such section and that only.

Petition
for submis-
sion of by-
law—what
required.

(15) In the case of a by-law to which the next preceding subsection applies, the petition shall be by a majority of the members of the council or at least fifty freeholders of the section qualified to vote on the by-law, and shall define the section by metes and bounds or by lots and concessions, and the assent to the by-law of those persons qualified to vote on it in the section shall be sufficient, and they shall be the only persons entitled to vote on the by-law.

(16) In all other respects the provisions of subsections 1 to 13 shall apply.

Subscribing
for stock.

(17) By-laws may, with the assent of the electors qualified to vote on a money by-law, be passed by the councils of all municipalities for subscribing for any number of shares in the capital stock of a railway company.

(18) Clauses (a), (e) and (f) of section 396 shall apply to a by-law passed under the authority of this section.

Delivery of
debentures
to three
trustees.

(19) Where a by-law is passed under the authority of this section for granting a bonus to a railway company, the debentures therefor shall, within six months after the passing of the by-law, be delivered to three trustees, all of whom shall be residents of Ontario, who shall be named, one by the Municipal Board, one by the railway company, and one by the head of the municipality, or if bonuses have been granted by the councils of more municipalities than one by the majority of the heads of the municipalities by which the bonuses have been granted.

Appointment
of trustees
in case of
failure to
appoint in
first in-
stance.

(20) If the head of the municipality or the heads of the municipalities, as the case may be, do not within one month after notice in writing of the appointment of the railway company's trustee name their trustee, the company may

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name him, and if the Board does not name a trustee within one month after notice in writing to the Board of the appointment of the other two trustees, the company may name the third trustee.

(21) The Board may remove a trustee and may appoint a new trustee in his stead, and if a trustee dies or resigns his trusteeship or goes to reside out of Ontario, or otherwise becomes incapable of acting, his trusteeship shall become vacant and the Board may appoint a trustee in his stead.

Removal
of trustee
by Board.

(22) The trustees shall receive and hold the debentures in trust:—

Trusts on
which debentures
to be held.

(a) Under the direction of the railway company, but subject to the conditions of the by-law as to the time or manner of so doing, to convert the same into money or otherwise dispose of them;

(b) To deposit the debentures or the amount realized from the sale of them in a chartered bank having an office in Ontario, in the name of "The Railway Municipal Trust Account" (*designating the name of the railway*).

(c) To deliver the debentures or pay the proceeds of the sale of them to the company from time to time as it becomes entitled thereto under the conditions of the by-law on the certificate of the chief engineer of the railway company, Form 25.

(23) The certificate shall be attached to the cheque or order drawn by the trustees for such delivery or payment.

Certificate
of engineer
to be attached
to cheque.
Penalty for
wrongfully
granting
certificate.

(24) If the chief engineer wrongfully grants any such certificate he shall incur a penalty of \$500, recoverable by any person who may sue therefor.

(25) The act of any two of the trustees shall be as valid and binding as if they had all joined therein.

Acts of
two trustees
to bind.

(26) The trustees shall be entitled to their reasonable fees and charges from the trust fund. 3-4 Geo. V. c. 43, s. 397.

Fees of
trustees.

398. By-laws may be passed by the councils of all municipalities.

Amateur Athletic and Aquatic Sports.

1. For aiding amateur athletic or aquatic sports.

Sports.

Bands of Music.

2. For aiding the establishment or maintenance of bands of music by any corps of active militia within the country or any other bands of music.

Bands of
music.

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Bathing Houses.

Public bathing houses.

3. For establishing and maintaining or for granting money to aid in the construction of public bathing houses.

Census.

Local census.

4. For taking a census of the inhabitants.

Charitable Institutions, etc.

Aid to charities.

5. For granting aid to any charitable institution or out-of-door relief to the resident poor.

Crimes—Discovery of.

Rewards for apprehension of criminals.

6. For offering and paying rewards for the discovery, apprehension and conviction of persons who have or are believed or suspected to have committed flagrant crimes or to have contravened clause (g) of section 138, or to have been guilty of personation as defined by *The Dominion Election Act* or by *The Ontario Election Act* within the municipality.

R.S.C. c. 6.
Rev. Stat.
c. 8.*Drainage.*

Construction of drains, sewers, sewage-disposal works, etc.

7. For constructing, maintaining, improving, repairing, widening, altering, diverting and stopping up drains, sewers or water-courses; providing an outlet for a sewer or establishing works or basins for the interception or purification of sewage; making all necessary connections therewith, and acquiring land in or adjacent to the municipality for any of such purposes.

Driving or Riding on Roads and Bridges.

Regulating driving on roads and bridges.

8. For regulating the driving of horses or cattle and the riding of horses on highways and bridges.

Prohibiting racing on highways.

9. For prohibiting racing, immoderate or dangerous driving or riding on highways or bridges.

See section 404, par. 3, as to setting apart streets in cities of 100,000 population for fast driving.

Electors—Submitting Questions to.

Submission of questions of general policy to electors.

10. For submitting to the vote of the electors of any municipal question not specifically authorized by law to be submitted.

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Exhibitions.

11. For acquiring land within or without the municipality as a place for holding agricultural, horticultural or industrial exhibitions and for erecting and maintaining buildings thereon for that purpose and for the management of the same. Acquiring land for agricultural exhibitions, etc.

12. For leasing for any period not exceeding three years from the making of the lease, any part of the land acquired under paragraph 11, which is not immediately required for the purposes for which it was acquired. Power to lease.

Fat Stock and Other Shows and Exhibitions.

13. For granting or lending money or granting land in aid of any association for the holding of a fat stock or live stock show or exhibition or any exhibition for the promotion or improvement of farming in any of its branches or departments. Aid to fat or live stock shows.

Ferry Boats and Ferries.

14. For making an annual grant towards the maintenance and operation of ferry boats or other appliances used at any ferry over a stream or other water separating a part of the municipality from another part of it, or separating it from another municipality in Ontario. Grants to ferries.

Fire Engines and Appliances.

15. For purchasing or renting for a term of years or otherwise, fire engines, fire apparatus and fire appliances and their appurtenances. Purchasing or renting fire engines, etc.

Flooding—Prevention of.

16. For the purpose of preventing damage to any highway or bridge or to any property within the municipality by floods arising from the overflowing or damming back of a river, stream or creek flowing through or in the neighbourhood of the municipality, for acquiring land in the municipality or in any adjoining or neighbouring municipality, and for constructing such works as may be deemed necessary for that purpose, and for deepening, widening, straightening or otherwise improving such river, stream or creek in the land so acquired, or removing from it islands, rocks or other natural obstructions to the free flow of the water. Works for prevention of damage by flooding.

Free Libraries.

17. For granting money or land in aid of any public library established under any Act in the municipality or in an adjacent municipality. Public libraries.

Foxes and other Wild Animals—Destruction of.

- Bounties for
destruction
of foxes, etc.
18. For giving bounties not exceeding \$5 per head for the destruction of foxes and other wild animals which kill or destroy poultry.

Harbours, Wharfs, Beacons, etc.

- Aid for
construction
of harbours,
wharfs,
etc.
19. For granting aid for the construction of harbours, wharfs, docks, slips and beacons on any river, lake or navigable water passing in, through or forming any part of the boundary of the county, on such terms and conditions as to security and otherwise as may be deemed expedient.
- Making, etc.,
of wharfs,
docks, etc.
20. For making, improving and maintaining public wharfs, docks and slips, and for preserving shores, bays, harbours, rivers or waters and the banks thereof.
- Regulating
harbours.
21. For regulating harbours.
- Injuring,
filling up,
etc., of
harbours,
wharfs.
22. For prohibiting the injuring, fouling, filling up or encumbering of a public wharf, dock, slip, drain, sewer, water or suction pipe, shore, bay, harbour, river or water.
- Beacons.
23. For erecting and maintaining beacons.
- Erecting
docks,
elevators.
24. For erecting and renting wharfs, piers and docks in harbours, and floating elevators, derricks, cranes and other machinery for loading, discharging or repairing vessels.
- Vessels, etc.
25. For regulating vessels, crafts and rafts arriving in a harbour, and for imposing and collecting such reasonable harbour dues thereon as may serve to keep the harbour in good order, and to pay a harbour master.
- Harbour
dues.
26. For requiring the owner or occupant of the land in connection with which the same exist to remove door-steps, porches, railings or other erections or obstructions projecting into or over any public wharf, dock, slip, shore, bay, harbour, river or water.
- Removal of
doorsteps,
railings,
projecting
over wharf,
dock, etc.

Hospitals, etc.

- Aiding erec-
tion, etc., of
hospitals.
27. For granting aid to any incorporated society or any association of individuals for the erection, establishment or equipment of public hospitals for the treatment of persons suffering from disease or from injuries.

Indigent Persons—Aid of.

- Aiding indi-
gent per-
sons.
28. For aiding in maintaining any indigent inhabitant of, or person found in, the municipality, at a house of refuge, hospital or institution for the insane, deaf and dumb or blind, or other public institution of a like character.

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- (a) Where money is advanced by way of charity or relief to or expended for the benefit of a person who, although in destitute circumstances, is the owner of or interested in land the retention of which is necessary for a dwelling for him, the corporation may take a conveyance of or security on such land for the amount advanced or expended, and on the death of such person, or the surrender of the land by him to the corporation, the corporation may sell or dispose of the land and apply the proceeds in payment of the amount so advanced or expended, with interest thereon at the rate of six per cent. per annum, and the costs of the sale and the residue of such proceeds, if any, shall be paid to the executors, administrators or assigns of such person on demand.
- Power to take security for advances made to persons by way of charity.

Municipal Officers.

29. For appointing such pound-keepers, road commissioners, pathmasters, fence-viewers, overseers of highways, road surveyors, inspectors of sheep worried or killed by dogs, and other officers in addition to those specially mentioned in this Act and such servants as may be deemed necessary for the purposes of the corporation, or for carrying into effect the provisions of any Act of this Legislature or by-law of the council.

Appointing certain officers.

30. For fixing their remuneration and prescribing their duties, and the security to be given for the performance of them.

Fixing fees, duties and security of.

Ontario Municipal Union.

31. For the corporation becoming a member of any union of Ontario municipalities for furthering the interests of municipalities and paying the fees for such membership and making contributions for the expenses of the union, and paying the expenses of delegates to any meeting of it or upon its business.

Membership in union of municipalities.

Public Parks and Drives.

32. For acquiring land for and establishing and laying out public parks, squares, avenues, boulevards and drives in the municipality or in any adjoining local municipality, and where there is no Board of Park Management for exercising all or any of the powers which are by *The Public Parks Act* conferred on Boards of Park Management.

Acquiring land for parks, etc.
Rev. Stat. c. 203.

- (a) A corporation which expropriates land in another municipality, under the powers conferred by this paragraph, shall put the land in an efficient state to be used, and open the same to the general pub-
- Where land expropriated is in an adjoining municipality.

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lic, for the purpose for which it was acquired, within a reasonable time after such expropriation and shall maintain and keep the same in an efficient state of repair and shall provide police protection therefor.

Accepting land
dedicated.

33. For accepting and taking charge of land, within or without the municipality, dedicated as a public park for the use of the inhabitants of the municipality.

Rifle Associations—Militia.

Aid to rifle
associations
and militia.

34. For aiding any regularly organized rifle association or any association or corporation having for its object or one of its objects the promotion of military art, science or literature.

Remuneration

35. For adding to the sum paid, during the period of annual or other authorized drill or when on active service, to any enlisted member of any corps of Active Militia organized within the municipality.

Equipment.

36. For providing military outfit or equipment for the members of such corps.

Sidewalks, etc.—Vehicles on.

Prohibiting
vehicles on
sidewalks,
etc.

37. For prohibiting carriages, waggons, bicycles, sleighs and other vehicles and conveyances of every description, and whatever the motive power, or any particular kind or class of such vehicles or conveyances being upon, or being used, drawn, hauled or propelled along or upon any sidewalk, pathway or footpath used by or set apart for the use of pedestrians, and forming part of any highway or bridge, boulevard or other means of public communication, or being in or upon any highway, boulevard, park, park-plot, garden or other place set apart for ornament or embellishment or for public recreation.

Victorian Order of Nurses.

Aid to
Victorian
Order of
Nurses.

38. For granting aid to the Victorian Order of Nurses.

Water for Fire Purposes.

Contracts
for supply
of water.

39. For contracting for a supply of water within the municipality for fire purposes and other public uses, from hydrants or otherwise as may be deemed advisable; and for renting hydrants for any number of years not, in the first instance, exceeding ten; and for renewing the contract from time to time for periods not exceeding ten years, as the council may deem proper; or for purchasing or erecting hydrants necessary for any of such purposes.

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Watering Streets.

40. For contracting with a street railway company for watering any of the highways for any number of years, not exceeding five, and for renewing such contract from time to time for a period not exceeding five years. 3-4 Geo. V. c. 43, s. 398.

Contracts with street railway companies for street watering.

399. By-laws may be passed by the councils of local municipalities.

Bathing in Public Waters.

1. For prohibiting or regulating the bathing or washing of the person in any public water in or near the municipality.

Bathing.

Charivaries.

2. For prohibiting charivaries and other like disturbances of the peace.

Charivaries.

Closet Accommodation for Workmen.

3. For requiring the owners, contractors or master workmen engaged in the erection or construction of buildings or public works to provide, for the use of the workmen employed in such erection or construction, closet accommodation, to be approved of by the medical health officer, in connection with them.

Conveniences to be provided by builders.

Cows and other Animals—Keeping of.

4. For regulating the keeping of cows, goats, swine and other animals.

Keeping of cows and other animals.

5. For prohibiting the keeping of cows, goats, swine or other animals, except horses or mules, within the municipality or within defined areas of it.

Contagious Diseases.

6. For providing blank forms for recording and reporting cases of contagious or infectious disease; for placarding houses wherein such cases exist, and for taking such measures as may be deemed necessary for preventing the spread of such diseases.

Contagious diseases.

Cruelty to Animals, Etc.

7. For preventing cruelty to animals and the destruction of birds.

Cruelty to animals.

Disorderly Houses.

8. For suppressing disorderly houses and houses of ill-fame.

Disorderly houses, etc.

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Disqualification of Electors not paying Taxes.

Disqualify-
ing electors
in arrear for
taxes.

9. For disqualifying from voting an elector who has not on or before the 14th day of December next preceding the election paid all municipal taxes due by him.

Drainage of Cellars, Privy Vaults, Etc.

Construction
of cellars,
drains, etc.

10. For regulating the construction of cellars, sinks, cesspools, water closets, earth closets, privies and privy vaults; for requiring and regulating the manner of the draining, cleaning and clearing and disposing of the contents of them.

Dry earth
closets.

11. For requiring the use within the municipality or a defined area of it of dry earth closets.

Expenses of
cleaning
closets, etc.

12. For providing that the cleaning and disposing of the contents of cesspools, water closets, earth closets, privies and privy vaults shall be done exclusively by the corporation.

(a) For such purpose the corporation, its officers and servants shall have all the powers of the local board of health and its officers and servants, and such expense shall be recoverable in the manner provided by section 500.

Filling up,
draining,
etc.,
grounds,
yards, etc.

13. For requiring and regulating the filling up, draining, cleaning, clearing of any grounds, yards and vacant lots and the altering, relaying or repairing of private drains.

Regulations
for sewer-
age, etc.

14. For making any other regulations for sewerage or drainage that may be deemed necessary for sanitary purposes.

Egress from Buildings.

Doors of
public build-
ings.
Rev. Stat.
cc. 235, 229.

15. For regulating, subject to the provisions of *The Egress from Public Buildings Act* and *The Ontario Factories Act*:—

(a) The size and number of doors, aisles, halls and stairs in and other means of egress from hospitals, schools, colleges, churches, theatres, halls, or other buildings used as places of worship, or of public resort, or amusement, or for public meetings, and street gates leading to them;

(b) The construction and width of stairways in such buildings, and in factories, warehouses, hotels, boarding and lodging houses;

(c) The materials of which and the manner in which stairs and stair-railings shall be constructed, and the strength of walls, beams and joists and their supports in all such buildings; and

(d) For requiring the production of the plans of the buildings mentioned in this paragraph now erected or which it is proposed to erect, and for prohibit-

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ing the use or erection of them until the provisions of the by-law are complied with to the satisfaction of the architect of the corporation or an officer appointed for the purpose.

16. For prohibiting and preventing the obstruction by persons or things of the halls, aisles, passage-ways, alleys or approaches in or leading to any such building during the occupation of it by a public assemblage.

Obstruction of halls, aisles, etc.

(a) While any building mentioned in clause (a) of paragraph 15 in a city or town is occupied by a public assemblage, the chief constable or any constable of the city or town may enter it to see that the by-law is not being violated, and may require the removal of any obstruction or of any person standing, sitting, or otherwise occupying any hall, aisle, passage-way, alley or approach, except for passing to and fro.

Powers of police officers as to seeing that by-laws enforced.

Electricity—Transmission of.

17. Subject to *The Municipal Franchises Act* for authorizing any person supplying electricity for light, heat and power, to lay down pipes or conduits for enclosing wires for the transmission of electricity under the highways or public squares, or to carry wires for the transmission of electricity or to erect telegraph, and telephone poles and wires across or along any highway or public square, on such terms and conditions as the council may deem expedient.

Laying of pipes or conduits on streets. Rev. Stat. c. 197.

Transmission of electricity.

(a) A by-law shall not be passed under this paragraph in violation of any agreement of the corporation.

Explosives—Keeping, Manufacturing and Storing of.

18. For regulating the keeping, storing and transporting of

Regulating, storing and transportation of explosives.

(a) Dynamite, dualin, nitro-glycerine or gunpowder;

(b) Petroleum, gasoline or naphtha; and

(c) Other dangerous or combustible, inflammable or explosive substances;

19. For regulating and providing for the support by fees of magazines belonging to private persons for the storage of the substances mentioned in clause (a) of paragraph 18, and for requiring them to be stored in such magazines.

Fees for support of magazines.

20. For erecting and maintaining within or without the limits of the municipality magazines for the storage of the substances mentioned in clause (a) of paragraph 18, and for acquiring the land necessary for that purpose, and for requiring such substances to be stored in such magazines.

Erecting and maintaining magazines.

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Limiting
quantity to
be kept.

21. For limiting the quantity of the substances mentioned in clause (a) of paragraph 18, which may be kept in any place other than such a magazine, and for regulating the manner in which the same are to be kept or stored.

Prohibiting
manufac-
ture of
explosives.

22. For prohibiting or regulating the establishment within the municipality of factories or other places for the manufacture or storage of any of the substances mentioned in clause (a) of paragraph 18.

Submission
of plans of
premises.

23. For requiring the submission of plans of the premises including the buildings upon or in which it is proposed that such manufacture or storage shall take place, and the approval of them by the council before the manufacture or storing is commenced.

Height and
description
of fences
around
buildings.

24. For requiring such buildings to be surrounded by walls or fences and for regulating the height and description of such walls or fences and their distance from such buildings, and also the distance from any other building at which such manufacture or storage may be carried on.

Regulating
business of
manufac-
turing ex-
plosives.

25. For regulating the carrying on of the business of manufacturing or storing such substances, whether the business has been heretofore or shall be hereafter established, and prescribing the precautions to be taken for the prevention of fires and accidents from the combustion or explosion of such substances.

Licenses
for carry-
ing on
business.

26. For granting licenses for the carrying on of the business of manufacturing such substances or for storing them in quantities of more than twenty-five pounds, and prescribing the time, not exceeding five years, during which the licenses shall remain in force.

(a) The license fee shall not exceed \$25 a month for every month in which such business shall be carried on.

Prohibiting,
etc., storing
of gasoline,
etc.

27. For prohibiting or regulating the keeping or storing of gasoline or benzine, and prescribing the materials of which the vessels containing it shall be composed, and the classes of buildings in which it may be stored or kept for sale, and for making regulations for the prevention of fires and accidents from the combustion or explosion of such substances.

Fences.

Height and
kind of
fence.

28. For prescribing the height and description of lawful fences.

Along
highways.

29. For prescribing the height and description of and the manner of maintaining, keeping up and laying down fences along highways or parts thereof; and for making compensation for the increased expenses, if any, to persons required so to maintain, keep up or lay down any such fence.

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30. For determining how the cost of division fences shall be apportioned; and for providing that any amount so apportioned shall be recoverable under *The Ontario Summary Convictions Act*;

Division fences, apportionment of cost.
Rev. Stat. c. 90.

(a) Until a by-law is passed, *The Line Fences Act* shall apply.

Rev. Stat. c. 259.

31. For requiring proper and sufficient protection against injury to persons or animals by fences constructed wholly or partly of barbed wire or any other barbed material to be provided by the owner of the land; and in towns and cities for prohibiting the erection along the highways of fences made wholly or partly of barbed wire or any other barbed material.

Barbed wire fences.

32. For requiring the owners of land to erect and maintain a water gate where a fence crosses an open drain or watercourse.

Water gates.

Fire—Prevention of Accidents by.

33. For securing against accident by fire the inmates and employees and others in factories, hotels, boarding-houses, lodging-houses, warehouses, theatres, music halls, opera houses and other buildings used as places of public resort or amusement.

Providing against accidents by fire.

Fire Escapes.

34. Subject to the provisions of any other Act requiring fire escapes, for compelling the owners and occupants of buildings more than two storeys in height, except private dwellings, to provide proper fire escapes therefor in such places of such pattern and mode of construction as may be deemed proper; and for prohibiting the occupation of any such building unless or until such fire escapes are provided.

Compelling use of fire escapes.

Fires in Open Air.

35. For prescribing the times during which fires may be set in the open air and the precautions to be observed by persons setting out fires.

Prescribing times for setting fire and precautions.

Firearms and Fireworks.

36. For prohibiting or regulating the discharge of guns or other firearms; and the firing and setting off of fireballs, squibs, crackers or fireworks.

Discharge of firearms, fireworks, etc.

Food.

37. For regulating the delivery and exposure for sale upon a highway or in a market or public place of meat, poultry, game, flesh, fish or fruit, or the carcass of any animal.

Regulating the delivery or exposure for sale of meat, etc.

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Inspection
of milk and
provisions.

38. For appointing inspectors, and for providing for the inspection of meat, poultry, fish and natural products offered for sale for human food, whether on the streets or in public places, or in shops.

Seizing
tainted
food.

39. For authorizing the seizing and destroying of tainted and unwholesome articles of food.

Gambling Houses, etc.

Gaming.

40. For suppressing gambling houses, and for seizing and destroying faro-bank, rouge et noir, or roulette tables, and other devices for gambling found in them.

Gas Works, Tanneries, Distilleries, etc.

Gas works,
distilleries,
etc.

41. For prohibiting or regulating the erection or continuance of gas works, tanneries, or distilleries or other manufactories or trades which in the opinion of the council may prove to be or may cause nuisances.

Graves—Protection of.

Protecting
graves.

42. For prohibiting the violation of cemeteries, graves, tombs, tombstones or vaults where the dead are interred.

Hoists, Scaffolds, etc.

Construction
of hoists,
scaffolding,
etc.

43. For regulating and inspecting the construction and erection of hoists, scaffoldings and other apparatus and appliances used in erecting, repairing, altering or improving buildings, chimneys or other structures; and for making regulations for the protection and safety of workmen and others employed thereon; and for appointing inspectors of scaffolding.

(As to appointment of inspectors under The Buildings Trades Protection Act and as to additional scaffold regulations, see Rev. Stat. c. 228, ss. 3 and 7.)

Manufactures and Trades.

Noxious
manufac-
tures and
trades.

44. For regulating manufactures and trades which in the opinion of the council may prove to be or may cause nuisances.

Noises.

Ringling of
bells, etc.

45. For prohibiting or regulating the ringing of bells, the blowing of horns, shouting and unusual noises or noises calculated to disturb the inhabitants.

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Nuisances.

46. For prohibiting and abating public nuisances.

Nuisances.

47. For prohibiting the hauling of dead horses, offal, night soil or any other offensive matter or thing along any highway during the hours of daylight.

Hauling dead horses, etc., through the streets in daylight.

Placards, etc.—Indecent.

48. For prohibiting the posting or exhibition of placards, play bills, posters, writings or pictures or the writing of words, or the making of pictures or drawings, which are indecent or may tend to corrupt or demoralize, on any wall or fence or elsewhere on a highway or in a public place.

Indecent placards, etc.

Plays—Immoral or Indecent.

49. For prohibiting the production or giving of an immoral or indecent play or performance in any theatre, hall or other public place of amusement or entertainment, and for authorizing the chief constable, the deputy chief constable or any inspector of police, or any officer or person specially detailed for that purpose, to enter any theatre, hall or other place of public amusement or entertainment, and if at his request such play or performance is not forthwith stopped, to apprehend the performers without warrant, and to take them as soon as practicable before a Police Magistrate or a Justice of the Peace.

Immoral plays in theatres.

Poles and Wires.

50. Subject to *The Municipal Franchises Act* for regulating the erection and maintenance of electric light, power, telegraph and telephone poles and wires and poles and wires for the transmission of electricity upon the highways or elsewhere within the municipality.

Electric light, etc., poles and wires.
Rev. Stat. c. 197.

51. Subject to *The Power Commission Act* for constructing or laying down pipes or conduits for enclosing wires for the transmission of electricity under, or for erecting towers or poles for the support of wires for such purpose across or along any highway or public place, and for entering into agreements with electric light or power, telegraph or telephone companies for the use by them of such pipes, conduits or poles, for such consideration and on such terms and conditions as may be agreed upon.

By-laws for laying pipes or conduits for electric wires.

Rev. Stat. c. 39.

Pounds, etc.

52. For providing sufficient yards and enclosures for the safe keeping of such animals as it may be the duty of the pound-keeper to impound.

Providing pounds.

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Animals
running at
large.

53. For prohibiting or regulating the running at large or trespassing of animals, other than dogs, and for providing for impounding them and for causing them to be sold, if they are not claimed within a reasonable time, or if the damages, fines and expenses are not paid according to law.

Appraising
the
damages.

54. For appraising the damages to be paid by the owners of animals impounded for trespassing contrary to law or the by-laws of the municipality.

Compensa-
tion for
impounding
animals.

55. For determining the compensation to be allowed for services rendered in carrying out the provisions of any Act with respect to animals impounded or distrained and detained in the possession of the distrainer.

Sewers—Extension of.

Extension of
sewers into
adjoining
municipal-
ity.

56. Where a local municipality is so situate that it is necessary, in order to procure an outlet for a sewer or to connect it with a sewage farm, to extend it into or through an adjacent municipality, for so extending it, or for extending and connecting it with any existing sewer of such adjacent municipality, upon such terms and conditions as may be agreed upon, or in case of failure to agree, as may be determined by arbitration.

Arbitrators
to determine
conditions
on which
connections
may be
made.

(a) Where the council of the adjacent municipality objects to allow such extension or connection, the arbitrators shall determine not only the terms and conditions upon which the extension or connection is to be made, but also the location of the sewage farm, filtering plant or artificial means of sewage disposal which is contemplated, and whether the extension or connection should be allowed to be made.

Rev. Stat.
c. 260.

(b) Nothing in this paragraph shall authorize the making of an open drain or sewer, or affect the provisions of *The Ditches and Watercourses Act*, or limit any of the powers conferred on townships by that Act.

Signs, Etc.

Posters.

57. For prohibiting or regulating the erection of signs or other advertising devices and the posting of notices on buildings or vacant lots.

Pulling
down of
signs and
notices.

58. For prohibiting the pulling down or defacing of signs or other advertising devices and notices lawfully affixed.

Slaughter Houses.

Establish-
ing slaugh-
ter houses.

59. For establishing and maintaining public slaughter houses.

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60. For prohibiting or regulating and inspecting the erection or continuance of slaughter houses, and for prohibiting the slaughter of animals intended for food, except in slaughter houses designated in the by-law.

Prohibiting
and regu-
lating.

- (a) In towns, villages and townships this clause shall not apply to the slaughter of animals for the use of the person killing them or of his family.

Snow and Ice—Removal of.

61. For requiring the occupants of buildings adjoining a highway in the municipality or in any defined area of it to clear away and remove the snow and ice from the roofs of such buildings and from the sidewalks adjoining their premises, and for regulating the times when and the manner in which the same shall be done.

Clearing
away snow
and ice
from roofs
and side-
walks.

62. For clearing away and removing snow and ice from the roofs of unoccupied buildings adjoining a highway and from the sidewalks adjoining the premises and adjoining vacant land in the municipality or in any defined area of it at the expense of the owner, and for collecting or recovering the expenses incurred in so doing in the manner provided by section 500.

Case of
unoccupied
buildings
and vacant
land.

Sparring Exhibitions, etc.

63. For prohibiting sparring exhibitions and boxing matches, where an admission fee is charged, without the written permission of the chief constable in a city or town, or of the reeve in townships and villages.

Sparring
exhibitions
and boxing
matches.

Steam Transmission.

64. For authorizing any person supplying steam for heat or power to lay down pipes or conduits for transmitting steam under the highways or public squares, on such terms and conditions as the council may deem expedient.

Transmit-
ting steam
under
highways.

- (a) A by-law shall not be passed under the authority of this paragraph in violation of any agreement of the corporation.

Vagrants, etc.

65. For restraining and punishing vagrants, mendicants, and persons found drunk and disorderly in any highway or public place.

Vagrants.

Vice—Preventing.

66. For preventing vice, drunkenness, profane swearing, indecent, obscene, blasphemous or grossly insulting language, and other immorality and indecency, and the indecent public exposure of the person.

Vice,
drunken-
ness, etc.

(S. 399)

*Watercourses and Drains—Obstruction of.*Obstruction
of drains.

67. For prohibiting the obstruction of any drain or watercourse, and for permitting and regulating the size and mode of construction of culverts and bridges which cross any drain or watercourse situate on a public highway.

*Water Closets, Privy Vaults, etc.—Filling up.*Closing and
filling up
cesspools,
etc.

68. For requiring owners, lessees and occupants of land in the municipality or any defined area of it to close or fill up water closets, privies, privy vaults, wells or cess-pools, the continuance of which may, in the opinion of the council or the medical health office, be dangerous to health.

*Weeds.*Prevention
of growth
of thistles
and weeds.
Appoint-
ment of in-
spector to
enforce
by-law.

69. For prohibiting the growth of Canada thistles and other weeds detrimental to husbandry and for compelling the destruction thereof; for appointing an inspector to enforce the by-law, and for prescribing his duties and fixing his remuneration.

*Wells and Water.*Cleaning
and pro-
hibiting
fouling of
wells, etc.

70. For establishing, protecting, regulating and cleaning public and private wells, reservoirs and other public and private conveniences for the supply of water; for prohibiting the fouling of them, or the wasting of the water, and for procuring an analysis of such water, and providing for the payment of the expense thereof, and for making reasonable charges for the use of public water.

Filling up
wells.

71. For the closing or filling up of public or private wells.

Compelling
use of
water
supply.

72. For compelling the use within the municipality or any defined area therein, for drinking and domestic purposes, of water supplied from the water-works of the municipality or of a water-works company; and for prohibiting the use within the municipality or such area of spring or well water for such purposes. 3-4 Geo. V. c. 43, s. 399.

400. By-laws may be passed by the councils of urban municipalities.

*Bathing and Boat-Houses—Inspection of.*Inspection
of bathing
and boat
houses.

1. For inspecting public bathing-houses and boat-houses or premises wholly or partly used for boat-house purposes; and for prohibiting their use for illegal or immoral purposes.

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Begging.

2. For prohibiting common begging or persons from importuning, in the highways or public places, others for help or for aid in money, and deformed, malformed or diseased persons from exposing themselves, or being exposed there, to excite sympathy or for the purpose of obtaining help or assistance.

Prevention
of begging,
etc.

Borrowing Money for Certain Purposes Without Assent of Electors.

3. Where the corporation of an urban municipality has heretofore constructed, purchased or acquired, or hereafter constructs, purchases or acquires gas, electric light, power or water works or works for the development of a water power for generating, or works for producing, transmitting or distributing electrical power or energy, or sewerage works or works for the interception, purification or disposal of sewage, at the expense of the corporation at large, for borrowing such further sums as may be necessary to extend or improve such works.

Borrowing
money for
extension
of water,
gas, electric
light works,
etc.

(a) The by-law shall not require the assent of the electors if it is passed by a vote of three-fourths of all the members of the council and is approved by the Municipal Board.

When assent
of electors
not required.

(b) Such approval may be given if it is shown to the satisfaction of the Board that the extension is necessary, and that a sufficient additional revenue will be derived therefrom to meet the annual payments in respect of such debt and the interest thereon, or in the case of the extension or improvement of sewerage works or works for the interception, purification or disposal of sewage, that such extension or improvement is approved of by the Provincial Board of Health.

Approval
of Board,
conditions
precedent
to.

(c) This paragraph shall not apply to works required by the Provincial Board of Health to be established, improved, extended, enlarged, altered or renewed or replaced.

Buildings—Strength of Walls, Beams, etc.

④ 4. For regulating the size and strength of brick, stone, cement and concrete walls, and of the beams, joists, rafters, roofs and their supports of all buildings to be erected, altered or repaired, and for requiring the production of the plans of all buildings, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees.

Size and
strength of
walls, etc.,
and produc-
tion of
plans.

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Cab Stands and Booths.

Cab stands.

5. For authorizing and assigning stands on the highways and in public places for vehicles kept for hire; and for authorizing the erection and maintenance of covered stands or booths on the highways and in public places, for the protection or shelter of the drivers of such vehicles.

- (a) No such covered stand or booth shall be placed upon the sidewalk without the consent of the owner and occupant of the adjoining land.

Cellars—Plans of.

Ascertaining levels of cellars, etc.

6. For requiring owners and occupants to furnish the council with the levels, with reference to a line fixed by by-law, of their cellars heretofore or hereafter dug or constructed, and for taking such other means as may be deemed necessary for ascertaining such levels.

Compelling the furnishing of ground or block plan of buildings to be erected.

7. For requiring to be deposited with an officer named in the by-law, before the erection of a building is commenced, a ground or block plan of the building, with the levels of the cellars and basements, with reference to a line fixed by by-law.

Children Riding behind Vehicles.

Prohibiting children from riding behind wagons, etc.

8. For prohibiting children from riding on the platforms of cars, or riding behind or getting on wagons, sleighs or other vehicles while in motion, and for preventing accidents arising from such causes.

Coasting and Tobogganing.

Coasting and tobogganing.

9. For prohibiting or regulating coasting or tobogganing on the highways.

Drainage Purposes—Acquiring Land in Another Municipality for.

Acquiring land in another municipality for drainage purposes.

10. For acquiring, with the consent of the council thereof, land in any other municipality required for preventing such urban municipality or any part of it from being flooded by surface or other water flowing from such other municipality or for an outlet for such water; and for constructing, maintaining and improving drains, sewers and watercourses in the land so acquired.

Drill Sheds and Armouries.

Site for drill shed or armoury,

11. For acquiring land in the municipality for a drill shed or armoury for any militia or volunteer corps having its headquarters in the municipality.

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Elevators, Hoists, etc.

12. Subject to *The Ontario Factories Act* and any other Act relating to cranes, elevators and hoists, for regulating the construction of and for inspecting cranes, hoists and elevators, and for regulating the manner in which elevators and hoists which are to be operated automatically or otherwise in buildings shall be constructed and operated, and for licensing elevators and hoists used by the public or by employees.

Erection of
hoists and
elevators.
Rev. Stat.
c. 229.

Fire Engines, etc.—Right of Way on Highways.

13. For providing that the reels, engines and vehicles of the fire department shall have the right of way on the streets and highways while proceeding to a fire or answering a fire alarm call.

Right of
way on
streets for
fire reels.

Firemen, etc.

14. For appointing fire wardens, fire engineers and firemen, and for promoting, establishing and regulating fire-hook-and-ladder, and property saving companies.

Establish-
ing fire
companies,
etc.

Firemen, etc.—Medals, Rewards and Gratuities to.

15. For providing medals or rewards for persons who distinguish themselves at fires; and for granting gratuities to the members of the fire brigade who have become incapacitated for service on account of injuries or ill-health caused by accident or exposure at fires, or from old age or inability to perform their duties, and for granting pecuniary aid or other assistance to the widows and children of persons killed by accident while in the discharge of their duties at fires, or who die from injuries received or from illness contracted while in the service of the corporation as firemen.

Rewards to
firemen and
persons dis-
tinguishing
themselves
at fires.

Fires—Prevention of.

16. For regulating the construction, alteration or repairs of buildings.

Erection of
buildings,
etc.

17. For prohibiting the erection of wooden buildings or wooden additions, and of wooden fences, or the removal of any such building or fence from one place to another in defined areas of the municipality.

Wooden
buildings.

18. For prohibiting the erection or placing within defined areas of buildings or additions to them with main walls other than of brick, cement, concrete, iron or stone, and roofing of other than incombustible material.

Kind of
walls.

19. For regulating the repairing or alteration of roofs or the external walls of existing buildings within such areas, so that the buildings may be as nearly as practicable fire-proof.

Repairs to
existing
buildings.

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Pulling
down, etc.,
buildings
illegally
erected.

20. For authorizing the pulling down or removal, at the expense of the owner, of any building or erection constructed, altered, repaired or placed in contravention of the by-law.

Pulling
down
buildings
in ruinous
state.

21. For authorizing the pulling down or repairing or renewing, at the expense of the owner, of any building, fence, scaffolding or erection, which, by reason of its ruinous or dilapidated state, faulty construction or otherwise is in an unsafe condition as regards danger from fire or risk of accident.

Fire in
stables, etc.

22. For prohibiting or regulating the use of fire or lights in factories, stables, cabinet makers' shops, carpenters' shops, paint shops, dye and cleaning works, and places where their use may cause or promote fire.

Dangerous
manufac-
tories.

23. For prohibiting or regulating the carrying on of manufactures or trades which may be deemed dangerous in causing or spreading fire.

Inspecting
and regulat-
ing electric
wires, etc.

24. For regulating and inspecting wires and other apparatus placed or used for the transmission of electricity for any purpose in or along any highway or on or in any building, and for requiring any such wire or other apparatus which is deemed unsafe or dangerous to be removed or repaired at the expense of the person to whom it belongs or who is using it.

Construc-
tion of
chimneys,
fireplaces,
etc.

25. For regulating the construction of chimneys, flues, fire-places, stoves, ovens, boilers or other apparatus or things which may be dangerous in causing or promoting fire, and for removing at the expense of the owner any of them constructed in contravention of the by-law.

Dimensions
and clean-
ing of
chimneys.

26. For regulating the construction as to dimensions and otherwise, and for enforcing the proper cleaning of chimneys.

Removal
of ashes.

27. For regulating the mode of removal and safe keeping of ashes.

Erection of
party walls.

28. For regulating and enforcing the erection of party walls.

Scuttles,
ladders, etc.,
to houses.

29. For requiring the owners and occupants of buildings to have scuttles in the roof, with approaches, or stairs or ladders leading to the roof.

Guarding
buildings
against fire.

30. For requiring buildings and yards to be put in a safe condition to guard against fire or other dangerous risk or accident.

Fire buckets.

31. For requiring each inhabitant to provide as many fire buckets, in such manner and at such time as may be prescribed; and for regulating the inspection of them and their use at fires.

Inspection
of premises.

32. For authorizing appointed officers to enter at all reasonable times upon any property in order to ascertain whe-

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ther the provisions of the by-law are obeyed, and to enforce or carry into effect the same.

33. For suppressing fires, and for pulling down or demolishing buildings or other erections when deemed necessary to prevent the spread of fire. Preventing spreading of fire.

34. For regulating the conduct and enforcing the assistance of persons present, and for the preservation of property at fires. Enforcing assistance at fires.

35. For making such other regulations for preventing fires and the spread of fires as the council may deem necessary. Regulations.

Harbours, Wharfs, Waters, etc.—Removal of Obstructions from.

36. For requiring and regulating the removal from any public wharf, dock, slip, drain, sewer, shore, bay, harbour, river or water, of all sunken, grounded or wrecked vessels, barges, crafts, cribs, rafts, logs or other obstructions or incumbrances, by the owner, charterer or person in charge, or any other person who ought to remove the same. Removal of sunken vessels, etc., from harbours, etc.

Milk and Bread Tickets, etc.

37. For regulating the use of tickets, checks or coupons by vendors of or dealers in milk, bread or other articles of food. Milk and bread tickets.

Naming and Surveying Streets.

38. To provide for surveying, settling and marking the boundary lines of highways and giving names to them or changing their names, and for affixing the names at the corners thereof on public or private property: Marking the boundaries of and naming streets, etc.

(a) A by-law for changing the name of a highway shall not have any force or effect unless passed by a vote of at least three-fourths of all the members of the council, or until a copy of it certified under the hand of the clerk and the seal of the corporation has been registered in the registry office of the proper registry division. Proceedings for changing names of streets.

(b) A by-law for changing the name of a highway in a city or town shall state the reason for the change, and shall not be finally passed until it has been approved by a judge of the County or District Court of the county or district in which the municipality is situate.

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- (c) The judge, on the application of the council, shall appoint a day, hour and place for considering the by-law, and for hearing those advocating and opposing the change.
- (d) A copy of the by-law and of the appointment shall be served on the registrar of the registry division in which the municipality is situate at least two weeks before the time appointed, and a notice of the application in such form as the judge may approve shall be published once in the *Ontario Gazette* at least two weeks before the time so appointed, and at least once a week for four successive weeks in such other newspaper or newspapers as the Judge may direct.
- (e) If the judge approves of the change he shall so certify, and his certificate shall be registered with the by-law, and the change shall take effect from the date of the registration.

Numbering Houses and Lots.

Numbering
houses, etc.

39. For numbering the buildings and lots along the highways and for affixing numbers to the buildings, and for charging the owner or occupant with the expense incident to the numbering of his building or lot.

- (a) Such expense may be collected in the same manner as taxes, and if paid by the occupant, subject to any agreement between him and the owner, may be deducted from the rent payable to the owner.

Numbers and Record of Streets.

Record of
streets,
numbers,
etc.

40. For keeping (and every such council shall keep) a record of the highways and of the numbers of the buildings and lots, and for entering therein (and every such council is hereby required to enter therein) a division of the streets with boundaries and distances for public inspection.

Pits and Quarries.

Pits and
quarries.

41. For prohibiting the making of pits and quarries in the municipality or regulating the location of them.

- (a) The making or locating of a pit or quarry in contravention of the by-law in addition to any other remedy may be restrained by action at the instance of the corporation.

Runners.

Importuning
travellers.

42. For prohibiting persons from importuning on a highway or in a public place others to travel in or employ any

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vessel or vehicle, or to go to any tavern or boarding house, or for regulating persons so employed.

Sewer Rents.

43. For charging all persons who own or occupy land drained, or which by by-law of the council is required to be drained, into a common sewer a reasonable rent for the use of it; for regulating the time and manner in which the rent is to be paid; for providing for the payment of a commutation of such rent or charging a gross sum in lieu of rent and for the payment of such commutation or gross sum either in cash or by instalments with interest. Sewer rents.

- (a) This paragraph shall not apply to a sewer constructed as a local improvement.

Sidewalks—Horses and Cattle upon.

44. For prohibiting the leading, riding or driving of horses or cattle upon sidewalks or in other places not proper therefor. Driving, etc., upon sidewalks.

Smoke Prevention.

45. For requiring the owner, lessee, tenant, agent, manager or occupant of any premises in, or of a steam boiler in connection with which a fire is burning and every person who operates, uses or causes or permits to be used any furnace or fire, to prevent the emission to the atmosphere from such fire of opaque or dense smoke for a period of more than six minutes in any one hour, or at any other point than the opening to the atmosphere of the flue, stack or chimney. Smoke prevention.

- (a) This paragraph shall not apply to a furnace or fire used in connection with the reduction, refining, or smelting of ores or minerals or the manufacture of cement, or to dwelling houses, except apartment houses;
- (b) No person shall incur a penalty for an infraction of the by-law committed before he has had 90 days' written notice from the corporation of the existence of it.

Spitting on Sidewalks, etc.

46. For prohibiting spitting on sidewalks and pavements, and in the passages and stairways of and entrances to public buildings, and in buildings, halls, rooms and places to which the public resort, in street cars and public conveyances, and in such other public places as may be designated in the by-law. Spitting on sidewalks, public buildings, etc.

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*Stables, etc.*Location of
stables,
garages, etc.

47. For regulating the location, erection and use of stables, garages, barns, outhouses and manure pits.

*Trading Stamps, Coupons, etc.*Trading
stamps and
coupons.

48. For prohibiting the giving, selling or distributing of or the dealing with trading stamps, coupons or other similar devices by any person engaged in trade or business or the receiving of them.

Merchants'
premium
coupons.

(a) The by-law shall not apply to a merchant or manufacturer who places in or upon packages of goods, or delivers to purchasers of goods sold or manufactured by him at the time of the purchase, tickets or coupons, which state upon their face the place of delivery thereof, and the cash or merchantable value of them, and are redeemable at any time, but only by the merchant or manufacturer giving them and at the place where such goods were sold or purchased.

*Traffic on Highways, etc., Driving of Cattle, etc.*Regulating
traffic on
streets and
width of
wheels.

49. For regulating traffic in the highways and the width of the tires and wheels of all vehicles used for the conveyance of articles of burden, goods, wares or merchandise; and for prohibiting heavy traffic and the use of traction engines and the driving of cattle, sheep, pigs and other animals in certain highways and public places named in the by-law and for prohibiting traffic in any but one direction in highways which in the opinion of the council are too narrow for the passing of one vehicle by another.

*Watchmen.*Appointment
of night-
watchmen.

50. For employing and paying one or more watchmen to patrol at night, or between certain hours of the night, any highway or part of a highway to be defined by the by-law and to guard and protect property; and for levying and collecting in the same manner and at the same time as taxes are levied and collected, by special rate, according to its assessed value, upon the land abutting on such highway or part of a highway within the limits defined by the by-law, except vacant lots, the expenses of or incidental to the employment of such night-watchmen.

Special rate
for ex-
penses.Petition by
ratepayers.

(a) The by-law shall not be passed except upon petition of two-thirds of the assessed owners and tenants of the land liable to be charged with the expenses, representing at least two-thirds of the assessed value of such land.

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- (b) A petition shall not be acted on unless the signatures to it, and that the contents of it were made known to each person before signature, are proved by affidavit. Proof of signatures.
- (c) As between the landlord and tenant, in the absence of any express agreement to the contrary, the tenant shall be liable for the expenses for the period of his occupation. Liability of tenant.
- (d) When land is occupied by a tenant the owner shall not be entitled to petition. When owner not to petition.

Vacant Lots—Enclosure of.

51. For requiring vacant lots to be properly enclosed. Vacant lots.
 3-4 Geo. V. c. 43, s. 400.

Markets, etc.

401. Subject to the next succeeding section by-laws may be passed by the councils of urban municipalities. Market by-laws.

1. For establishing, maintaining and regulating markets. Establishing markets.
 2. For prohibiting or regulating the sale by retail in the highways or on vacant lots adjacent to them of any meat, vegetables, grain, hay, fruit, beverages, smallwares and other articles, and for regulating traffic in and preventing the blocking up of the highways by vehicles or otherwise. Regulating vending in streets, etc.
 3. For regulating the place and manner of selling and weighing grain, meat, vegetables, fish, hay, straw and other fodder, wood, lumber, shingles, farm produce, smallwares and all other articles exposed for sale, and prescribing the fees to be paid therefor. Sale of grain meat, farm produce, smallware, etc.
 4. For prohibiting criers and vendors of smallwares from practising their calling in the market place, or on the highways, or on vacant lots adjacent to the market place or to a highway. Criers and vendors of smallwares.
 5. For prohibiting the forestalling, regrating or monopoly of grain, wood, meat, fish, fruit, roots, vegetables, poultry, dairy products, eggs and all articles for family use, which are usually sold in the market, and for prohibiting or regulating the purchase of such things by hucksters, grocers, butchers, runners or wholesalers, or by persons who directly or indirectly purchase or acquire them for re-sale. Prohibiting forestalling, etc.
Hucksters, etc.
- (a) Farmers and other producers may nevertheless sell such things at stores and shops at any time. Proviso.
6. For regulating the measuring or weighing of lime, shingles, laths, cordwood, coal and other fuel. Measuring, etc., certain articles.

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Penalties for
light weight,
etc.

7. For imposing penalties for light weight or short count or measurement in anything marketed.

Seizing
articles of
light weight,
etc.

8. For seizing and forfeiting any articles, except bread, of light weight or short measure.

Regulating
vehicles used
in market
vending.

9. For regulating vehicles, vessels and other things in which anything is exposed for sale or marketed and for imposing a reasonable duty thereon, and establishing the mode in which it shall be paid.

Sale of meat
distrained.

10. For selling, after six hours' notice, butchers' meat distrained for rent of a market stall. 3-4 Geo. V. c. 43, s. 401.

No market
fees to be
imposed on
certain
products.

402.—(1) No market fee shall be imposed, levied or collected, in respect of wheat, barley, rye, corn, oats or any other grain, hay or other seed, wool, lumber, lath, shingles, cordwood or other firewood, dressed hogs, cheese, hay, straw or other fodder, brought to market, or upon the market place, for sale or other disposal.

When fees
may be
charged on
butter, etc.
brought to
market.

(2) No market fee shall be imposed, levied or collected in respect of butter, eggs, poultry, honey, celery, small fruits or other articles in hand baskets, brought to market, or upon the market place, for sale or other disposal, unless a convenient and fit place affording shelter in summer, and shelter and reasonable protection from the cold in winter, in which to expose them for sale is provided by the corporation.

Fees not to
be charged
on articles
delivered in
pursuance of
prior con-
tract.

(3) Where the vendor of an article brought within the municipality in pursuance of a prior contract for the sale of it proceeds directly to the place of delivery, without hawking it upon the highways or elsewhere in the municipality, no market fee shall be imposed, levied, or collected in respect of it.

Nor on
articles
brought
into muni-
cipality after
10 a.m.

(4) No market fee shall be imposed, levied or collected in respect of any article brought into the municipality after ten o'clock in the forenoon unless it is offered or exposed for sale upon the market place.

When
articles
need not be
weighed or
measured.

(5) No by-law shall require hay, straw or other fodder to be weighed, or wood to be measured, where neither the vendor nor the purchaser desires to have it weighed or measured.

Time after
which at-
tendance
on market
not required.

(6) A person who has exposed or offered for sale an article in the market place and has paid the prescribed fee, if any, in respect of it may, after nine o'clock in the forenoon, between the 1st day of April and the 1st day of November and after ten o'clock in the forenoon, between the 1st day of November and the 1st day of April, sell such article elsewhere than in the market place.

Scale of
market fees.

(7) No market fees may be imposed, levied or collected higher than those contained in the following scale:—

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On a motor vehicle or a vehicle drawn by more than one horse or other animal in which articles are brought to the market place....10 cents.

If the vehicle is drawn by one horse or other animal 5 cents.

Upon a vehicle propelled or drawn by hand or a basket or vessel in which articles are brought to the market place..... 2 cents.

Upon the person bringing articles to the market place by hand and not in a vehicle, basket or vessel 2 cents.

Upon live stock brought to the market place for sale:—

A horse, mare or gelding10 cents.

A head of horned cattle 5 cents.

A sheep, calf or swine 2 cents.

(8) No fees may be imposed, levied or collected for weighing or measuring greater than those contained in the following scale:—

Scale of fees for weighing or measuring.

For weighing a load of hay15 cents.

For weighing slaughtered meat, or grain or other articles exposed for sale, if weighing less than one hundred pounds 2 cents.

If weighing more than one hundred and less than one thousand pounds 5 cents.

If weighing more than one thousand pounds 10 cents.

For weighing live animals, other than sheep or swine, per head 3 cents.

For weighing sheep or pigs, if more than five, per head 1 cent.

If less than five, for the lot 4 cents.

For measuring a load of wood 5 cents.

(9) Subsection 1 shall not apply to a municipality in which there is in force a by-law providing that vendors of articles in respect of which under the provisions of paragraph 3 of section 401 a market fee may be imposed may, without paying market fees, offer for sale and sell or otherwise dispose of such articles at any place within the municipality, excepting only at the market place.

Subsection 1 not to apply where by-law in force allowing sale without fee except at the market;

(10) Subject to subsection 2, the council of a municipality to which subsection 9 applies may by by-law provide for imposing, levying and collecting market fees from such vendors who voluntarily use the market place for selling such articles or from any person who or whose vehicle remains upon that part of a highway which is within 100 yards of the market place, for the purpose of selling any of such articles other than grain, seeds, dressed hogs or wool upon such highway, but driving through or across such part of a highway shall not authorize the imposition of any market fee; nor shall any market fee be imposed in respect of an article

but such by-law may impose fees on persons voluntarily using market; and on others selling within 100 yards of market.

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Exception
as to sales
to persons
carrying on
business
near
market.

Fees not to
be charged
where high-
way used as
market.

Case of
municipal-
ity again
imposing
market fees.

Power to
regulate sales
when no fees
are charged.

Proviso.

Proviso.

Inconsistent
enactments
not to apply.

Right to
sell or lease
market fees.

sold to a person carrying on business and having a *bona fide* store, shop or other similar place of business on such part of a highway.

(11) Where a highway is used as a market place or market, or part of a market place or market, no market fees shall be imposed, levied or collected upon articles brought to that part of the highway which is so used, but this subsection shall not apply to so much of a highway as adjoins or abuts upon a market square established as a market place.

(12) Subsections 9 to 11 shall not apply to any municipality where no market fees were charged or imposed on the 10th day of March, 1882, but subsections 1 to 8 and 13 and 14 of this section shall apply to such municipality in the event of market fees being thereafter charged or imposed therein.

(13) Nothing in the preceding subsections contained shall prevent any municipality wherein no market fees are imposed or charged from regulating the sale and the place of sale of any articles within the municipality to the same extent as it might do before the 10th day of March, 1882;

(a) Market fees within the meaning of this subsection shall not include fees for weighing or measuring;

(b) After nine o'clock in the forenoon between the 1st day of April and the 1st day of November, and after ten o'clock in the forenoon between the 1st day of November and the 1st day of April, no person shall be compelled to remain on or resort to any market place with any articles which he may have for sale, but may, after the expiration of such hour, sell or dispose of such articles elsewhere than in or on said market places.

(14) Whenever subsections 1 to 8 or subsections 9 to 11 of this section are in force in any municipality, so much of any Act or law as may be contrary to and as conflicts with the same shall not be in force in or apply to such municipality.

(15) A corporation may sell or lease its market fees with the right to collect them. 3-4 Geo. V. c. 43, s. 402.

403. By-laws may be passed by the councils of counties, cities and towns.

Educational Institutions—Aid to.

Grants to
universities,
colleges,
historical
societies, etc.

1. For making grants in aid of the University of Toronto or of Upper Canada College, or of any other University or College in Ontario, or of any historical, literary or scientific society.

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- (a) Such grants may be made from time to time, and may be either by one payment, or by an annual payment for a limited number of years, and upon such terms and conditions as may be agreed upon and may include supplying Upper Canada College with water from the waterworks of the city of Toronto without charge.

Endowing Fellowships.

2. For endowing fellowships, scholarships or exhibitions, and other similar prizes, in the University of Toronto, or in Upper Canada College, or in any other university or college in Ontario, for competition among the pupils of the collegiate institutes and high schools in the municipality.

Endowing fellowships, etc., in universities and colleges.

3. For granting aid to art schools approved by the Department of Education.

Aid to art schools.

4. For granting aid for the erection, establishment or equipment of an industrial school, to any philanthropic society, within the meaning of *The Industrial Schools Act* upon the board of which the council is represented.

Aid to industrial schools.

Rev. Stat. c. 271.

Supporting Pupils at High Schools, Universities and Colleges.

5. For making permanent provision for defraying the expenses of the attendance at the University of Toronto or at Upper Canada College, or at any other university or college in Ontario, of such of the pupils of any collegiate institute or high school of the municipality as are unable to incur the expense, but are desirous of, and in the opinion of the head master thereof possess competent attainments for, competing for any scholarship, exhibition or other similar prize offered by such University or College.

Supporting certain high school pupils at universities, colleges, etc.

6. For making similar provision for the attendance at any collegiate institute or high school, for the like purpose, of pupils of public schools of the municipality. 3-4 Geo. V. c. 43, s. 403.

Similar provision for attendance at high schools.

404. By-laws may be passed by the councils of towns, villages and townships.

Education.

1. For making grants in aid of or to build, preserve, enlarge or improve any collegiate institute or high school in another municipality. 3-4 Geo. V. c. 43, s. 404.

Grants to high schools.

405. By-laws may be passed by the councils of counties and cities.

Horse Thieves.

Reward for apprehension of persons guilty of horse stealing.

1. For paying on the conviction of the offender and on the order of the judge or police magistrate before whom the conviction is had a reward of not less than \$20 to any person who pursues and apprehends, or causes to be apprehended, any person horse stealing within the municipality.

Proviso.

(a) The amount payable as the reward shall be in the discretion of the judge or police magistrate, but shall not exceed the amount fixed by the by-law.
3-4 Geo. V. c. 43, s. 405.

406. By-laws may be passed by the councils of cities and towns.

Bicycles, etc.

Regulating use of bicycles on highways.

1. For regulating the use on the highways of bicycles and other vehicles not drawn by horses, but not including motor vehicles.

Dogs—Licensing of.

Licensing dogs.

2. For licensing and requiring the registration of dogs and for imposing a license fee on the owners, possessors or harbourers of them, with the right to impose a larger fee in the cases of bitches or for each additional dog or bitch where more than one is owned, possessed or harboured by any one person or in any one household;

2 Geo. V. c. 65.

Rev Stat. c. 246.

(a) Where the license fee is equal to or exceeds the amount of the tax imposed by *The Dog Tax and Sheep Protection Act* sections 3 to 8 of that Act shall not apply while the by-law remains in force, and it shall not be necessary to enter any particulars as dog taxes on the collector's roll.

Drunk and Disorderly Person.

Release without trial of persons arrested for drunkenness.

3. For providing that the chief constable or any member of the police force in charge of a police station to which a person is brought charged with being drunk without being disorderly may release him without bringing him before a justice of the police or police magistrate.

Fuel Yards.

Establishing fuel yards.

4. With the approval of the Lieutenant-Governor in Council, and within the limitations and restrictions, and under the conditions prescribed by the Order-in-Council for borrowing such sums as may be necessary for temporarily maintaining fuel yards and purchasing supplies of such fuel, and selling and disposing of them to residents of the muni-

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unicipality in anticipation of or during a period of such an actual or anticipated scarcity or failure of supply as may appear to create an emergency.

- (a) The by-law shall not require the assent of the electors but shall require a vote of two-thirds of all the members of the council.

Garbage Collection.

5. For establishing and maintaining a system for the collection, removal and disposal at the expense of the corporation of ashes, garbage and other refuse, and with the approval of the Provincial Board of Health for erecting and maintaining such buildings, machinery and plant as may be deemed necessary for that purpose, or for contracting with some person for the collection, removal and disposal by him of the ashes, garbage and other refuse upon such terms and conditions and subject to such regulations as may be deemed expedient.

Removal of
ashes,
garbage,
etc.

- (a) Where the amount required for the erection of such buildings, machinery and plant and for acquiring the requisite land exceeds \$5,000, the by-law shall not be finally passed without the assent of the electors entitled to vote on money by-laws.

6. For the collection, removal and disposal by the corporation of ashes, garbage and other refuse throughout the whole municipality or in defined areas of it at the expense of the owners and occupants of the land therein, and for imposing upon such land according to its assessed value a special rate to defray the expense of such collection, removal and disposal.

Special rate
for cost of.

- (a) No land shall be exempt from the special rate, any thing in any general or special Act or in any by-law to the contrary notwithstanding.

No land
exempt.

- (b) The special rate may be collected or recovered in the manner provided by section 500.

Recovery of
special rate.

Laundrymen.

7. For licensing, regulating and governing laundrymen and laundry companies and for inspecting and regulating laundries;

Licensing,
etc., of
laundries.

- (a) The by-law shall not apply to or include women carrying on a laundry business in private dwelling houses, and employing female labour only, or to such dwelling houses.

- (b) The by-law may provide that a license shall not be granted if it is deemed that the location of the laundry is an undesirable one.

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Lavatories, etc.

Maintaining
public con-
veniences in
cities and
towns.

8. For constructing and maintaining lavatories, urinals, water closets and like conveniences, where deemed requisite, upon the highways or elsewhere, and for supplying them with water, and for defraying the expense thereof and of keeping them in repair and good order.

Lifeboat Associations.

Aid to life-
boat associa-
tion.

9. For granting aid to any organization owning, manning and working lifeboats or other apparatus for life saving purposes.

Residential Streets and Building Line.

Setting
apart resi-
dential
streets.
Fixing
building
line.

10. For declaring any highway or part of a highway to be a residential street, and for prescribing the distance from the line of the street in front of it at which no building on a residential street may be erected or placed.

(a) It shall not be necessary that the distance shall be the same on all parts of the same street.

(b) The by-law shall not be passed except by a vote of two-thirds of all the members of the council.

Sewerage System—Management of by Commissioners.

Commis-
sioners to
manage
sewerage
system.
Rev. Stat.
c. 204.

11. Where the sewerage system includes the disposal or purification of sewage upon a sewage farm by filtration or other artificial means, for placing the management of it under a commission established under *The Public Utilities Act*.

(a) The by-law shall not be passed without the assent of the municipal electors.

Superannuation and Benefit Funds.

Superannua-
tion and
benefit funds
for fire and
police force.

12. For granting aid for the establishment and maintenance of superannuation and benefit funds for the members of the police force and of the fire brigade, and of other officers and employees of the corporation, and of their wives and families.

Surveyors and Engineers.

Corporation
surveyor
and
engineers.

13. For appointing an Ontario land surveyor as surveyor for the corporation and for appointing one or more engineers.

(a) An engineer so appointed and his assistants shall, in the performance of their duties, possess all the

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powers, rights and privileges of a surveyor under Rev. Stat. c. 166.
The Surveys Act. 3-4 Geo. V. c. 43, s. 406.

407. By-laws may be passed by the councils of towns and villages.

Fire Engines, etc.

1. For purchasing fire engines, apparatus or appliances By-laws for purchase of fire engines and appliances. and appurtenances for fire protection at a cost not exceeding \$5,000, and for the issue of debentures therefor, payable in equal annual instalments of principal and interest during a period not exceeding ten years.

- (a) It shall not be necessary to obtain the assent of the electors to the by-law if it is passed by a two-thirds vote of all the members of the council.

Vehicles Used for Hire, etc.—Livery and Boarding Stables.

2. For licensing, regulating and governing teamsters, Licensing, etc. carters and dray men, drivers of cabs and other vehicles for hire, and regulating the charges for the conveyance of goods teamsters, etc. or for other services by them.

3. For licensing, regulating and governing the keepers of livery stables, and of horses and cabs, carriages, omnibuses Licensing livery stables, cabs, etc. and other vehicles used or kept for hire; for regulating the fares to be charged for the conveyance of goods or passengers, and for enforcing payment thereof;

4. For defining districts within which a livery or boarding stable shall not be established. Prohibited areas. 3-4 Geo. V. c. 43, s. 407.

408. By-laws may be passed by the councils of counties.

Booms—Protection and Regulation of.

1. For protecting and regulating booms on any stream or Protecting booms. river for the safe keeping of timber, saw-logs and staves.

Fences.

2. For the exercise in respect of fences along highways Fences. under the jurisdiction of the council, of the powers conferred upon the councils of local municipalities by paragraph 29 of Rev. Stat. c. 211. section 399 and by *The Snow Fences Act.*

Guaranteeing Debentures.

3. For guaranteeing debentures of any local municipality Guaranteeing debentures. in the county.

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Poles and Wires.

Regulating
erection of
poles, towers,
wires, etc.,
on county
roads.

Rev. Stat.
c. 197.

4. Subject to *The Municipal Franchises Act* for permitting and regulating the erection and maintenance of electric light, power, telegraph and telephone poles, towers and wires on, and the laying of pipes or conduits for the conveyance of water, gas or sewage under, the highways, under the jurisdiction of the council.

Publicity Purposes.

Annual
expenditure
for diffusing
information.

5. For expending for the purposes mentioned in section 428 and for diffusing information respecting the advantages of the county as an agricultural centre a sum not exceeding in any year \$3,000.

Traffic—Regulation of; Licensing Livery Stables, etc.

Regulation
of traffic on
certain
county roads.

6. If there are gravel or macadamized highways under the jurisdiction of the council, and under its immediate control, which are being kept up and repaired by municipal taxation, and upon which no toll is collected;

Licensing
livery
stables.

(a) for licensing, regulating and governing the keepers of livery stables, and of horses, cabs, carriages, omnibuses and other vehicles used or kept for hire, and teamsters;

Rates of
fare.

(b) for regulating the fares to be charged for the conveyance of goods or passengers;

Tires.

(c) for regulating the traffic on such highways and the width of the tires on the wheels of vehicles used for the conveyance of articles of burden, goods, wares, or merchandise on such highways; and

Lock shoes.

(d) for regulating the use of lock shoes on vehicles used on such highways. 3-4 Geo. V. c. 43, s. 408.

409. By-laws may be passed by the councils of cities.*Commissioner of Industries.*

Commis-
sioner of
Industries.

1. For the establishment and maintenance of a department of industries and for appointing a commissioner of industries to bring to the notice of manufacturers and others the advantages of the city as a location for industrial enterprises, summer resorts, residential, educational and other purposes.

Location of Stables, etc.

Location of
livery stables,
etc.

2. For regulating and controlling the location, erection and use of buildings as livery, boarding or sales stables, and stables in which horses are kept for hire or kept for use with

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vehicles in conveying passengers, or for express purposes, and stables for horses for delivery purposes, laundries, butcher shops, stores, factories, blacksmith shops, forges, dog kennels, hospitals or infirmaries for horses, dogs or other animals and for prohibiting the erection or use of buildings for all or any or either of such purposes within any defined area or areas or on land abutting on any defined highway or part of a highway;

- (a) The by-law shall not be passed except by a vote of two-thirds of all the members of the council;
- (b) This paragraph shall not apply to a building which was on the 26th day of April, 1904, erected or used for any of such purposes, so long as it is used as it was used on that day.

Sidelights on Vehicles.

3. For requiring all vehicles using the public streets after dusk and before dawn to carry lighted side lights plainly visible from in front of and from behind such vehicles.

Vehicles to carry side lights at night.

Tussock Moths.

4. For requiring persons to destroy all tussock moths and the cocoons thereof on trees or elsewhere upon the premises owned or occupied by them. 3-4 Geo. V. c. 43, s. 409.

Destruction of tussock moths.

410. By-laws may be passed by the councils of cities having a population of not less than 100,000.

Apartment Houses, Tenement Houses and Garages.

1. For prohibiting or for regulating and controlling the location or erection within any defined area or areas or on land abutting on defined highways or parts of highways of apartment or tenement houses and of garages to be used for hire or gain.

Location of apartment houses and garages.

- (a) For the purposes of this paragraph an apartment or tenement house shall mean a building proposed to be erected or altered for the purpose of providing three or more separate suites or sets of rooms for separate occupation by one or more persons.

Building Restrictions—Deviation from.

2. For authorizing the city architect, or other officer, appointed for that purpose to permit in special cases, which in his judgment warrant it, such deviation from the by-laws regulating the erection of buildings as he may deem proper.

Deviation from by-law regulating erection of buildings.

(S. 410)

Speedways.

Setting
apart streets
for fast
driving.

3. For setting apart one or more highways on which horses may be ridden or driven more rapidly than is permitted upon other highways, and for regulating the use for such purpose of any such highway.

(a) If a majority of the property owners on any such street petition against such by-law it shall be repealed.

University of Toronto.

4. For granting aid to the University of Toronto.

Unslaughtered Cattle.

Seizure of
cattle, etc.,
unfit for
food.

5. For authorizing the seizing, in order to prevent their use as food, of unslaughtered cattle, sheep, calves and hogs which have died within the municipality, and for disposing of the carcasses so as not to endanger the public health, and so as to secure to the owner such value as remains over and above the expenses incurred in disposing of them. 3-4 Geo. V. c. 43, s. 410.

411. By-laws may be passed by the councils of townships.*Fires—Prevention Of.*

Prevention
of fires.

1. Within defined areas, where the number of the inhabitants or the proximity of buildings in any part of the township renders it expedient to do so, for exercising the powers conferred on the councils of urban municipalities by paragraphs 16 to 35 of section 400.

Portable Steam Engines.

Portable
steam
engines.

2. For prescribing the distance from a highway within which unenclosed portable steam engines may not be used for running a saw-mill or a shingle mill.

Sleighing—Keeping Open Highways During Season of.

Keeping
roads open
in winter.

3. For providing for keeping open the highways during the season of sleighing in each year; and for the application of so much of the commutation of the statute labour fund as may be necessary for that purpose.

Requiring
overseers of
highways
to keep open
highways.
Powers.

4. For requiring the overseers of highways or the pathmasters to make and keep open the highways during the season of sleighing.

(a) Such overseers and pathmasters may require the persons liable to perform statute labour to assist in keeping open such highways, and shall give to

(S. 411)

any person so employed a certificate of his having performed statute labour and of the number of days' work done, for which he shall be allowed on his next season's statute labour.

Streams, Creeks and Water-courses—Prohibiting Obstruction of.

5. For prohibiting the obstruction of streams, creeks and water-courses by trees, brushwood, timber or other materials, and for requiring the clearing away and removing of the obstructions by the person causing the same. Prohibiting obstruction of streams, etc.

Weighing Machines.

6. For erecting and maintaining weighing machines within the municipality or within an adjacent village, and charging fees for the use thereof, not being contrary to the limitations prescribed by subsection 8 of section 402. Erecting and maintaining weighing machines.

Wet Lands.

7. For purchasing any wet land in the township, the price of which, in case of Crown lands, shall be fixed by the Lieutenant-Governor in Council, and for draining such land. Purchase of wet lands from Government, etc.

Naming Streets and Numbering Houses.

8. In the case of townships bordering on cities having a population of not less than 50,000 for naming and surveying streets and for numbering houses and lots under and in conformity with paragraphs 38 and 39 of section 400. 3-4 Geo. V. c. 43, s. 411. Naming streets, etc.

412. By-laws may be passed by the councils of counties, separated towns and towns in unorganized territory and of cities having a population of less than 100,000 and by the Board of Commissioners of Police of cities having a population of not less than 100,000.

Auctioneers.

1. For licensing, regulating and governing auctioneers and other persons selling or putting up for sale goods, wares, merchandise or effects by public auction, and for prohibiting the granting of a license to an applicant who is not of good character, or whose premises are not suitable for the business of auctioneer or are upon a residential or other highway in which it is deemed not desirable that the business should be carried on; for ascertaining by such means as the by-law may provide whether an applicant is not of good character or his premises are not suitable for the business; for determining the time the license shall be in force; Licensing, etc., auctioneers.

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- (a) No such by-law shall apply to a sheriff or bailiff offering for sale goods or chattels seized under an execution or distrained for rent.

Bill Posters.

Bill posters.

2. For licensing, regulating, and governing bill posters, advertising sign painters, bulletin board painters, sign posters and bill distributors, and for prohibiting the posting up or distributing of posters, pictures or hand bills which are indecent or tend to corrupt morals. 3-4 Geo. V. c. 43, s. 412.

413. By-laws may be passed by the councils of counties, separated towns and towns in unorganized territory and by Boards of Commissioners of Police of cities.

Junk and Second-hand Shops, etc.

Licensing and regulating junk shops, etc.

R.S.C. c. 146

1. For licensing, regulating and governing junk shops, and second-hand shops and dealers in second-hand goods, and for revoking and cancelling the license of any person convicted of a second offence against the by-law or of an offence against sections 399 to 401 of *The Criminal Code*.

- (a) "Dealers in second-hand goods" shall include persons who go from house to house or along highways for the purpose of collecting, purchasing or obtaining second-hand goods.

- (b) "Second-hand goods" shall include bottles, bicycles, waste paper, rags, bones, old iron or other scrap or junk.

- (c) The fee to be paid for the license shall not exceed \$20 for one year. 3-4 Geo. V. c. 43, s. 413.

414. By-laws may be passed by the councils of counties, separated towns and towns in unorganized territory.

Public Fairs.

Public fairs for sale of cattle, etc.

1. For authorizing, on petition of at least fifty electors, the holding at one or more of the most public and convenient places in the municipality public fairs restricted to the sale, barter and exchange of cattle, horses, sheep, pigs and articles of agricultural production or requirement.

Rules for governing same.

- (a) The by-law shall prescribe rules and regulations for the government of the fairs, and appoint a person to see that they are carried out, and shall also fix the fees to be paid to him by persons attending the fair, and public notice of the passing of the by-law shall be forthwith given by the council.

Notice of passing of by-law.

(S. 414)

Surgeons.

2. For appointing one or more surgeons of the gaol and other institutions under the control of the corporation. Appointing inspectors, gaol surgeons, etc.
 3-4 Geo. V. c. 43, s. 414.

415. By-laws may be passed by the councils of counties, cities, separated towns and towns in unorganized territory.

Tanneries.

1. For defining areas within which tanneries, rag, bone, or junk shops, or industries of a noxious or unhealthy character, may not be carried on. Defining areas in which certain trades may not be carried on.
- (a) This paragraph shall not apply to a tannery erected before the 7th day of April, 1890. 3-4 Geo. V. c. 43, s. 415.

416. By-laws may be passed by the councils of counties and towns, and of cities having a population of less than 100,000 and by the Board of Commissioners of Police of cities having a population of not less than 100,000.

Hawkers and Pedlars.

1. For licensing, regulating and governing hawkers, pedlars and petty chapmen, and other persons carrying on petty trades, or who go from place to place or to other men's houses on foot, or with any animal, vehicle, boat, vessel or other craft, bearing or drawing goods, wares, or merchandise for sale, or otherwise carrying goods, wares or merchandise for sale. Licensing, etc., hawkers, petty chapmen.
- (a) No such license shall be required for hawking, peddling or selling goods, wares or merchandise to a retail dealer, or for hawking, peddling or selling goods, wares or merchandise, the growth, produce or manufacture of Ontario, not being liquors within the meaning of *The Liquor License Act*, if the same are hawked or peddled by the manufacturer or producer of them, or by his *bona fide* servants or employees having written authority to do so. When license not required. Rev. Stat. c. 215.
- (b) Such servant or employee shall exhibit his authority when required so to do by any municipal or peace officer. Production of authority of servant.
- (c) In a prosecution for a breach of the by-law the onus of proving that he does not for either of the reasons mentioned in clause (a) require to be licensed shall be upon the person charged. Onus of proof that no license required.

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Certain
powers
not affected.

- (d) Nothing in this paragraph shall affect the powers to pass by-laws under sections 401 and 402, paragraph 1 of section 419, and paragraphs 6 and 7 of section 420.

"Hawkers,"
meaning of.

- (e) "Hawkers" in this paragraph shall include agents for persons not resident within the county who sell or offer for sale tea, coffee, spices, baking powder, dry goods, watches, plated ware, silver ware, furniture, carpets, upholstery, millinery or jewellery, spectacles or eyeglasses, or who carry and expose samples or patterns of any such article, which is to be afterwards delivered within the county to a person not being a wholesale or retail dealer in such article.

Force of
by-law of
town not
separated.

- (f) Where the council of a town not separated from a county has passed a by-law under this paragraph a by-law of the county shall not be in force in the town while the by-law of the town remains in force.

Fees.

- (g) The fee to be paid for the license under by-laws passed under this paragraph may be lower in the case of persons who have resided continuously within the municipality for which the license is sought for at least one year prior to the application therefor than in the case of persons who have not so continuously resided, but in cities having a population of not less than 100,000 the fee shall not be more than \$50 for a motor vehicle or a two-horse waggon, \$30 for a one-horse waggon, \$15 for a push-cart, \$10 for one carrying a pack, and \$1 for one carrying a basket.

License to
be produced
on demand.

- (h) The licensee shall at all times whilst carrying on his business have his license with him and shall upon demand exhibit it to any municipal or peace officer, and if he fails to do so shall, unless the same is accounted for satisfactorily, incur a penalty of not less than \$1 or more than \$5.

Penalty.

- (i) If a peace officer demands the production of a license by any person to whom the by-law applies and the demand is not complied with it shall be the duty of the peace officer, and he shall have power, to arrest such person without a warrant and to take him before the nearest justice of the peace, there to be dealt with according to law.

Supplying
licenses.

2. For providing the treasurer or clerk of the county or the clerk of any municipality within the county with licenses under by-laws passed under paragraph 1 of section 412 and paragraph 1 of this section, to be issued under such regulations as may be prescribed to persons applying for them.

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3. For prohibiting the sale of fruit, candy, peanuts, ice cream or ice cream cones from a basket, or a waggon, cart or other vehicle upon any highway or part of it, or in any public park or other public place. Prohibiting sale of fruit, etc. on public streets, etc.

(a) The by-law shall not apply to a farmer, market gardener or other person selling or delivering goods at any place of business or residence upon such highway or part thereof. 3-4 Geo. V. c. 43, s. 416. Proviso.

417. By-laws may be passed by the councils of counties, towns, villages and townships and of cities having a population of less than 100,000, and by the Boards of Commissioners of Police of cities having a population of not less than 100,000.

Intelligence Offices.

1. For licensing and governing suitable persons to keep intelligence offices; for registering the names and residences of servants, workmen, clerks and other persons seeking employment; for procuring employment for them and giving information to them and to persons in want of them, and for fixing the fees to be charged by the keepers of such offices, and the duration of the license. Licensing intelligence offices.

2. For regulating such intelligence offices. Regulation.

3. For revoking any such license. Revocation of license.

(a) The license fee shall not exceed \$10 for one year. Fee.

Victualling Houses, etc.

4. For limiting the number of and licensing and regulating victualling houses, ordinaries, and houses where fruit, fish, oysters, clams or victuals are sold to be eaten therein, and places not being a tavern or shop licensed under *The Liquor License Act* for the lodging, reception, refreshment or entertainment of the public. Limiting number of and licensing. Victualling houses, etc. Rev Stat. c. 215.

5. For revoking the license. Revocation of license.

(a) The sum to be paid for the license shall not exceed \$20. 3-4 Geo. V. c. 43, s. 417. Fees.

418. By-laws may be passed by the councils of towns and cities having a population of less than 100,000, and by Boards of Commissioners of Police of cities having a population of not less than 100,000.

Electrical Workers.

1. For examining, licensing and regulating electrical workers. 3-4 Geo. V. c. 43, s. 418. Electrical workers.

419. By-laws may be passed by the councils of towns and villages and of cities having a population of less than 100,000 and by the Boards of Commissioners of Police of cities having a population of not less than 100,000.

Sale of Meat.

Regulating
sale of meat.

1. For granting annually, or oftener, licenses for the sale of fresh meat in quantities less than by the quarter carcass, and fixing and regulating the places where such sale shall be allowed, and for prohibiting the sale of fresh meat in less quantity than the quarter carcass, unless by a licensed person and in a place authorized by the council;

Proviso.

(a) The power conferred by paragraph 1 shall not be affected or restricted by anything in section 402.

(b) Nothing in paragraph 1 shall affect the powers conferred by paragraphs 3 and 4 of section 401.

(c) The fee to be paid for the license shall not exceed \$50 in a city and \$25 in a town or village.

Tobacconists.

Licensing
and regulat-
ing keepers
of tobacco
stores.
Rev. Stat.
c. 215.

2. For licensing, regulating and governing keepers of stores and shops other than taverns and shops licensed under *The Liquor License Act* where tobacco, cigars or cigarettes are sold by retail, and for revoking any license granted.
3-4 Geo. V. c. 43, s. 419.

420. By-laws may be passed by the councils of towns, townships, villages and cities having a population of less than 100,000 and by Boards of Commissioners of Police in cities having a population of not less than 100,000.

Bagatelle and Billard Tables.

Billiard,
pool and
bagatelle
tables.

1. For licensing, regulating and governing persons who for hire or gain, and proprietary clubs which directly or indirectly keep, or have in their possession, or on their premises any billiard, pool or bagatelle table, or keep or have any such table, whether used or not, in a house or place of public entertainment or resort; for limiting the number of licenses to be granted and the number of such tables which shall be licensed and for revoking any license granted.

(a) "Proprietary club" shall mean a club the members of which or some of them are not shareholders of the club, or in some similar manner interested in its property.

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Dogs.

2. For prohibiting or regulating the running at large of dogs; for seizing and impounding and for killing, whether before or after impounding, dogs running at large contrary to the by-law; and for selling dogs so impounded at such time and in such manner as may be provided by the by-law.

Prohibiting
running at
large of
dogs.

- (a) For the purposes of this paragraph a dog shall be deemed to be running at large when found in a highway or other public place and not under the control of any person.

Exhibitions, Places of Amusement, etc.

3. For regulating and licensing exhibitions held for hire or gain, theatres, music halls, bowling alleys, moving picture shows and other places of amusement, and for prohibiting the location of them, or a particular class of them, on land abutting on any highway or part of a highway to be named in the by-law and for revoking any license granted.

Exhibitions,
Bowling
alleys, etc.

Plumbers.

4. For licensing, regulating and governing plumbers.

Plumbers.

Shows.

5. For prohibiting or regulating and licensing exhibitions of wax work, menageries, circus-riding and other like shows usually exhibited by showmen, and for regulating and licensing roller skating rinks and other places of like amusement, and merry-go-rounds, switchback railways, carousals and other like contrivances; and for imposing penalties not exceeding the amount of the license fee on offenders against the by-law; and for levying the same by distress and sale of the goods and chattels of the showman or proprietor, or belonging to or used in such exhibition or show whether owned or not owned by such showman or proprietor.

Exhibitions
of wax
work,
shows, etc.

- (a) A license shall not be granted for any such exhibition or show to be held on the days of the exhibition of any district or township agricultural society, within 300 yards from the grounds of the society or for any such exhibition or show in or in connection with which gambling is carried on or goods, wares or merchandise are sold or trafficked in.

Licenses not
to be granted
for certain
times and
places.

- (b) The fee to be paid for the license shall not exceed \$500.

Fees.

Transient Traders.

6. For licensing, regulating and governing transient traders and other persons whose names have not been entered on the assessment roll in respect of income or business assess-

Licensing
and regu-
lating
transient
traders.

(S. 420)

ment for the then current year; and who offer goods, wares or merchandise for sale by auction, conducted by themselves or by a licensed auctioneer or otherwise, or who offer them for sale in any other manner.

Require-
ment as to
obtaining
license be-
fore doing
business.

7. For requiring transient traders and other persons whose names are not entered on the assessment roll or are entered on it for the first time, in respect of income or business assessment, and who so offer goods, wares or merchandise for sale, to pay a license fee before commencing to trade.

Stock of
insolvent.

(a) A by-law passed under paragraphs 6 or 7 shall not apply to the sale of the stock of an insolvent which is being sold or disposed of within the county or district in which he carried on business therewith at the time of the issue of an attachment or of the execution of an assignment.

Meaning of
words
"transient
traders."

(b) "Transient traders" shall include any person commencing business who has not resided continuously in the municipality for at least three months next preceding the time of his commencing such business there.

Fees.

(c) The fee to be paid for a license under paragraph 8 shall not exceed in a city or town \$250, in a village in unorganized territory \$200, and in other local municipalities \$100.

(d) The sum paid for a license shall be credited to the person paying it on account of taxes thereafter payable by him. 3-4 Geo. V. c. 43, s. 420.

421. By-laws may be passed by the councils of towns and villages and Boards of Commissioners of Police in cities.

Bands and Musical Instruments.

Bands of
music.

1. For regulating or prohibiting the playing of bands and of musical instruments in any highway, park, or public place except by a military band attached to any regular corps of the Militia of Canada when on duty under the command of its regular officer.

Junk Stores—Purchasing or Receiving Pledges from Minors.

Junk shops,
buying from
minors.

2. For prohibiting keepers of second-hand shops or junk stores or shops directly or indirectly purchasing from, exchanging with, or receiving in pledge from any minor appearing to be under the age of 18 years, without written authority from a parent or guardian of such minor, any metals, goods or articles. 3-4 Geo. V. c. 43, s. 421.

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422. By-laws may be passed by Boards of Commissioners of Police of cities.*Cab Drivers—Licensing of.*

1. For licensing drivers of cabs.

Licensing
cab drivers.*Children in Certain Occupations.*

2. For regulating and controlling children engaged as express or despatch messengers, vendors of newspapers and small wares and bootblacks.

Control of
children.*Fares for Conveyance of Goods and Passengers.*

3. For establishing the rates of fare to be taken by the owners or drivers of vehicles for the conveyance of goods or passengers, either wholly within the city or from any point within the city to any other point not more than three miles beyond its limits, and providing for enforcing payment of such fares.

Rates of
fare for
conveyance
of goods or
passengers.*Livery Stables, etc.—Hours of Labour.*

4. For regulating the hours of labour of persons employed in livery or boarding stables as drivers of motor vehicles, cabs, carriages or sleighs kept for hire, or by the owners of horses, carts, trucks, omnibuses and other vehicles kept for hire.

Regulating
hours of
labour of
persons em-
ployed in
livery
stables, etc.*Livery Stables, etc.—Licensing of.*

5. For licensing and regulating the owners of livery stables and of horses, cabs, carriages, carts, trucks, sleighs, omnibuses and other vehicles regularly used for hire within the city, whether such owners reside within or without the city.

Licensing
and regulat-
ing livery
stables,
cabs, etc.*Parades and Traffic on Highways.*

6. For regulating parades or processions on highways, and from time to time, and as occasion may require, prescribing the routes of travel to be observed by all vehicles, horses and persons upon the highways, and preventing the obstruction of the highways during public processions or public demonstrations, and for giving directions to the police constables for keeping order, and preventing any collision or obstruction of traffic at the intersections or other frequented portions of the highways on all occasions when the highways are thronged or liable to obstruction.

Regulating
traffic and
parades.

- (a) This paragraph shall not affect the right, if any, of a street railway company to regulate the routes of its cars and no regulation or direction which may affect a street railway company shall be

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made or given until the company has been afforded an opportunity of being heard. 3-4 Geo. V. c. 43, s. 422.

Destitute Insane Persons—Support of.

County council to make provision for the destitute insane.

423. The council of every county shall make provision for the whole or partial support within the county of such insane destitute persons as cannot be admitted to a provincial Asylum, and shall determine the sums to be paid for such support, and the persons to whom the same shall be paid. 3-4 Geo. V. c. 43, s. 423.

Members of the Council—Payment of.

Remuneration to councillors and committee-men.

424. By-laws may be passed by the councils of counties and townships for paying the members of the council for their attendance at meetings of the council or of its committees at a rate not exceeding \$5 a day, and five cents for each mile necessarily travelled in going to and from such meetings. 3-4 Geo. V. c. 43, s. 424.

Remuneration of aldermen in certain cities.

425. By-laws may be passed by the councils of cities having a population of not less than 100,000 for paying an annual allowance, not exceeding \$300 to aldermen, and an additional allowance not exceeding \$100 to each chairman of a standing committee and to the chairman of the court of revision and the Local Board of Health.

(a) The by-law shall provide for the deduction from such allowance of a reasonable sum to be fixed by the council for each day's absence from meetings. 3-4 Geo. V. c. 43, s. 425.

Members of Certain Councils may be Appointed Commissioners.

Appointment of member of council as road commissioner, etc.

426. A member of the council of a county, village or township may be appointed commissioner, superintendent or overseer of any highway or of any work undertaken wholly or in part at the expense of the corporation and may be paid the like remuneration for his services as if he were not a member of the council. 3-4 Geo. V. c. 43, s. 426.

Expenses of Reception of Distinguished Guests and Travelling Expenses.

Annual appropriation for travelling and other expenses.

427. The council of a city may pay for the reception and entertainment of distinguished guests, and travelling expenses incurred in respect of matters pertaining to the interests of the corporation, a sum not exceeding in any year in the case of,

(S. 427)

- (a) a city having a population of not less than 100,000, \$10,000;
- (b) a city having a population of not less than 20,000, \$2,500;
- (c) other cities, \$500. 3-4 Geo. V. c. 43, s. 427.

Publicity Purposes.

428. The council of every city may expend a sum not exceeding in any year \$3,000 and the council of every town having a population of not less than 5,000 may expend a sum not exceeding in any year \$500, in diffusing information respecting the advantages of the municipality as a manufacturing, business, educational or residential centre, or as a desirable place in which to spend the summer months, and the councils of other municipalities except counties may expend for the like purpose a sum not exceeding in any year \$100. 3-4 Geo. V. c. 43, s. 428.

Appropriation for diffusing information re advantage of municipality.

PART XXI.

HIGHWAYS AND BRIDGES.

Powers and Duties as to.

429.—(1) In this Part

Interpretation.

- (a) "County bridge" shall mean a bridge under the exclusive jurisdiction of the council of a county.

"County Bridge."

(2) Except as provided by section 445 this Part shall not apply to a Provincial road or bridge under the control of the Crown. 3-4 Geo. V. c. 43, s. 429.

430. Where by this Part power is conferred upon a council to pass by-laws for acquiring or for assuming a highway it shall include the power to pass by-laws for acquiring or for assuming part of a highway. 3-4 Geo. V. c. 43, s. 430.

Power to acquire part of highway.

431. Where power to pass by-laws in respect of a highway or bridge is by this Act conferred on a council, unless otherwise expressly provided, it shall be exercisable only by the council having jurisdiction over the highway or bridge, or if the highway or bridge is under the joint jurisdiction of two or more councils only by the joint action of such councils, and a by-law by all of them shall be necessary for the exercise of such power. 3-4 Geo. V. c. 43, s. 431.

What councils to exercise powers re highways and bridges.

432. Except in so far as they have been stopped up according to law all allowances for roads made by the Crown surveyors, all highways laid out or established under the authority of any statute, all roads on which public money has

What shall constitute public highways.

been expended for opening them, or on which statute labour has been usually performed, all roads passing through Indian lands, all roads dedicated by the owner of the land to public use, and all alterations and deviations of and all bridges over any such allowance for road, highway or road, shall be common and public highways. 3-4 Geo. V. c. 43, s. 432.

Highways vested in corporation having jurisdiction over them.

433. Unless otherwise expressly provided, the soil and freehold of every highway shall be vested in the corporation or corporations of the municipality or municipalities, the council or councils of which for the time being have jurisdiction over it under the provisions of this Act. 3-4 Geo. V. c. 43, s. 433.

Jurisdiction of councils over highways.

434. Except where jurisdiction over them is expressly conferred upon another council, the council of every municipality shall have jurisdiction over all highways and bridges within the municipality. 3-4 Geo. V. c. 43, s. 434.

Exception as to road owned by company, etc.

435. The next preceding two sections shall not apply to roads or bridges owned by companies or individuals. 3-4 Geo. V. c. 43, s. 435.

Jurisdiction of county councils over roads and bridges.

436.—(1) The council of a county shall have jurisdiction over every

(a) highway, bridge and boundary line assumed by the council;

(b) bridge crossing a river, stream, pond or lake forming or crossing a boundary line between local municipalities other than a city or separated town in the county; and

(c) bridge crossing a river or stream over 100 feet in width within the limits of a village in the county where the bridge forms part of a main highway leading through the county.

Power to limit jurisdiction.

(2) The council may provide that the jurisdiction conferred upon it by clause (b) of subsection 1 shall not extend to bridges over rivers, streams, ponds or lakes, less than 80 feet in width, or of such width less than 80 feet, as may be specified in the by-law. 3-4 Geo. V. c. 43, s. 436.

Jurisdiction over bridges on county boundaries.

437. The councils of the corporations whose duty it is to erect and maintain bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between counties shall have joint jurisdiction over such bridges. 3-4 Geo. V. c. 43, s. 437.

Over bridges on boundaries between county and city, etc.

438. The councils of the corporations whose duty it is to erect and maintain bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between a county and a city or separated town shall have joint jurisdiction over such bridges. 3-4 Geo. V. c. 43, s. 438.

439. The councils of the local municipalities between which they run shall have joint jurisdiction over all boundary lines, whether or not they form also county boundary lines, which have not been assumed by the council of the county, and over the bridges on them except such bridges crossing rivers, streams, ponds or lakes forming or crossing such boundary lines as by the provisions of this Act are under the jurisdiction of another council or other councils. 3-4 Geo. V. c. 43, s. 439.

Over boundaries between local municipalities.

440. Where a boulevard, drive or highway or a public avenue or walk is owned or has been opened and laid out or is under the authority of this Act assumed, or a bridge is owned or has been constructed or is under the authority of this Act assumed by the corporation of a municipality other than that in which it is situate the council of that corporation shall have jurisdiction over it. 3-4 Geo. V. c. 43, s. 440.

Jurisdiction where corporation owns bridge, etc., in another municipality.

441.—(1) The council of a village may pass by-laws for the assumption by the corporation of the village, with the consent of, and on such terms and conditions as may be agreed on with, the council of the county, of any bridge within the limits of the village and under the jurisdiction of the council of the county.

Assumption by villages of bridges under control of county.

(2) When the by-law takes effect the bridge shall cease to be under the jurisdiction of the council of the county and shall come and thereafter remain under the jurisdiction of the council of the village, and shall be and remain toll free. 3-4 Geo. V. c. 43, s. 441.

Effect of by-law.

442. The council having jurisdiction over a bridge shall have jurisdiction over the approaches to it for 100 feet next adjoining each end of the bridge. 3-4 Geo. V. c. 43, s. 442.

Approaches to bridges.

443. Where land annexed to a city or town under this Act abuts on a highway the highway shall be under the joint jurisdiction of the councils of the city or town and the adjacent municipality or municipalities. 3-4 Geo. V. c. 43, s. 443.

Joint maintenance of roads where land annexed to city or town.

444.—(1) The corporations of adjoining municipalities may enter into an agreement for the maintenance and repair of any highway forming the boundary between such municipalities, including the bridges thereon which it is their duty to maintain and repair, whereby each of them may undertake, for a term of years not to exceed ten years, to maintain and keep in repair any portion of such highway for its whole width, and to indemnify and save harmless the other from any loss or damage arising from the want of repair of such portion.

Agreements between adjoining municipalities as to maintenance of boundary road.

(2) When the agreement is confirmed by by-law of the council of each of the municipalities, the by-law shall be registered.

Agreement to be registered.

istered in the registry office of the registry division in which the highway is situate.

Effect of.

(3) After the registration of the by-law, each corporation shall have jurisdiction over that portion of the road which it has undertaken to maintain and keep in repair, and shall be liable for the damages incurred by reason of neglect to maintain and keep the same in repair; and the other corporation shall be relieved from all liability in respect of its maintenance and repair. 3-4 Geo. V. c. 43, s. 444.

Proclamation bringing government road or bridge under jurisdiction of municipality.

445. Where the Lieutenant-Governor in Council by proclamation declares, which it shall be lawful for him to do, that any public road or bridge under the control of the Minister of Public Works shall not be under his control after a day named in the proclamation such road or bridge shall after that day cease to be under the control of the Minister and no tolls shall be collected thereon and the road or bridge shall be under the jurisdiction of the council of the local municipality in which it is situate, or if it is partly situate in two or more municipalities shall be under the jurisdiction of the councils of such municipalities, each having jurisdiction over the part which lies within its municipality, or if it lies between two or more municipalities shall be under the joint jurisdiction of their councils. 3-4 Geo. V. c. 43, s. 445.

Assumption by county councils of highways, bridges and boundary lines.

446.—(1) The council of a county may by by-law assume as a county road any highway, or as a county bridge any bridge, within a town, not being a separated town or within a village or township.

(2) The by-law shall not take effect until assented to by the council of the town, village or township.

(3) The council of a county may also by by-law assume as a county road any county or township boundary line.

(4) The council of a county may also by by-law assume as a county road any highway in a town, not being a separated town, or in a village or township which connects with a county road.

(5) Where a highway is assumed under this section the bridges thereon shall also be assumed as county bridges.

Repeal of by-law.

(6) A by-law passed under the authority of this section may be at any time repealed by the council of the county.

Effect of repeal.

(7) After the repeal of the by-law such highway or bridge shall cease to be under the jurisdiction of the council of the county and shall fall and be under the jurisdiction of the council or councils which had jurisdiction over it at the time of the passing of the by-law for assuming it. 3-4 Geo. V. c. 43, s. 446.

447.—(1) The council of a city or town may pass by-laws for assuming for the purpose of a public avenue or walk any highway in an adjacent local municipality and for acquiring so much land on either side of such highway as may be required to increase its width to not more than 100 feet.

Assuming highway in adjacent municipality as a public avenue or walk.

(2) The by-law shall not take effect unless or until it is assented to by by-law of the council of the adjacent municipality. 3-4 Geo. V. c. 43, s. 447.

Assent of other council.

448.—(1) The council of a county may by by-law abandon the whole or any part of a toll road owned by the corporation of the county or of any other road owned by it, whether the road is situate wholly within the county or partly within it and partly within an adjoining county.

Abandonment by county of roads.

(2) Forthwith after the passing of the by-law the clerk shall transmit by registered post to the clerk of every local municipality through or along or on the border of which the road runs a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

Clerk to transmit copies of by-law.

(3) The by-law shall not take effect unless or until it is approved by the Municipal Board, nor shall it take effect as to the part of the road lying within or along or on the border of a local municipality whose council does not by by-law assent to the by-law.

Approval of Municipal Board.

(4) From and after the taking effect of the by-law the council of a municipality within which any part of the road so abandoned lies shall have jurisdiction over that part of it which lies within the municipality, and where any part of a road so abandoned lies between or on the border of two or more local municipalities the councils of such municipalities shall have joint jurisdiction over that part of it.

Jurisdiction after abandonment.

(5) Nothing in this section shall extend or apply to a bridge which under the provisions of this Act is to be maintained wholly or partly by the corporation of the county. 3-4 Geo. V. c. 43, s. 448.

Exception.

449.—(1) A bridge of a greater length than 300 feet in a town having an equalized assessment of less than \$1,000,000 or in a township may, on the application of the council of such town or township, be declared to be a county bridge where

Bridges over 300 ft. in length in townships and certain towns may be declared county bridges.

(a) it is used by the inhabitants of other municipalities;

(b) it is situate on an important highway affording means of communication to several municipalities; and

(c) on account of its length, and for the reasons mentioned in clauses (a) and (b), it is unjust that

the burden of maintaining and repairing it should rest upon the corporation of the town or township.

Order of
Judge.

(2) An order declaring the bridge to be a county bridge may be made by a judge of the County Court of the county in which it is situate on the application of the council of the town or township.

Notice of
application.

(3) Notice of the application shall be served on the corporation of the county at least thirty days before the day on which it is to be made.

Hearing.

(4) Each corporation shall be entitled to be represented by counsel on the hearing of the application, and the evidence may, if the judge sees fit, and shall if either party so requests, be given under oath.

Power of
judge.

(5) If the judge is of opinion that for the reasons mentioned in subsection 1 the bridge should be declared to be a county bridge he shall by his order so declare, and in that case he shall determine whether the expense of maintaining and repairing the bridge shall be borne by the corporation of the county or partly by it and partly by the corporation of the town or township, and if he determines that it should be borne partly by each he shall fix the proportions in which the expense is to be so borne, and his declaration and determination shall be embodied in the order.

Registration
of order.

(6) If the order declares the bridge to be a county bridge it shall be registered in the registry office of the registry division in which the bridge is situate.

Appeal.

(7) An appeal shall lie from the order of the judge to a Divisional Court, and the proceedings upon and incidental to the appeal shall be the same as in the case of an appeal from a Judge of that court sitting in court.

Registration
of order of
divisional
court.

(8) If the order is reversed or varied by the order of the Divisional Court, or if an order declaring the bridge to be a county bridge is made by the Divisional Court, the order of that Court shall be registered as provided by subsection 6.

Effect of
order after
registration.

(9) Where the order of the judge of the County Court declares the bridge to be a county bridge, except where it is reversed, and subject to any variation of it on appeal, from and after the registration of the order, or where the order has been reversed and an order declaring the bridge to be a county bridge has been made by the Divisional Court from and after the registration of the order of the Divisional Court, the bridge shall be a county bridge.

Payment to
county of
proportion
of mainten-
ance.

(10) Whenever any expenditure is made by the corporation of the county in maintaining or repairing the bridge a proportion of which the corporation of the town or township is by the order required to bear that proportion of the

expenditure shall be payable by the last named corporation to the corporation of the county on demand.

(11) Where the application is dismissed, either by the order of the judge of the County Court or by the order of the Divisional Court, a new application shall not be made until five years have elapsed from the date of the order, and any new application thereafter made may be dealt with without regard to the former order, and the preceding subsections shall apply *mutatis mutandis* to the application. When new application may be made.

(12) In the case provided for by this section the councils of the town or township and the council of the county may at any time enter into an agreement as to the proportions in which the cost of maintaining the bridge and keeping it in repair shall be borne by their respective corporations. Power to agree as to maintenance.

(13) The agreement shall provide that the bridge shall thereafter or after a day to be named be under the exclusive jurisdiction of the council of the county or remain under the jurisdiction of the council of the town or township. What agreement to provide.

(14) The terms of the agreement shall be embodied in an order of the judge of the County Court which may be made upon the application of either corporation, and the order so made shall supersede any former order made by him. Order of judge embodying agreement.

(15) If the agreement provides that the bridge is to come under the exclusive jurisdiction of the council of the county the order made under the next preceding subsection shall so declare.

(16) The order made under subsection 14 shall be registered as provided by subsection 6, and shall have the same effect as an order upon an application made under subsection 2, but the order shall not be subject to appeal. 3-4 Geo. V. c. 43, s. 449. Registration of order.

450. The council of a county which assumes, as a county road or bridge, any highway or bridge within a township, shall with as little delay as reasonably may be, and at the expense of the county cause the highway to be graded and drained and gravelled, macadamized or surfaced or paved with other permanent material, or the bridge to be built in a good and substantial manner and shall maintain and keep the same in repair. 3-4 Geo. V. c. 43, s. 450. Highways assumed by county to be plank, gravelled, etc.

451. The council of the county shall cause to be built and maintained at the expense of the corporation of the county the bridges mentioned in clauses (b) and (c) of section 436. 3-4 Geo. V. c. 43, s. 451. County to build and maintain certain bridges.

452. Where a river, stream, pond or lake forms or crosses a boundary line between two or more counties, it shall be the duty of the corporations of the counties, and where it forms or crosses a boundary line between a county and a city or a Maintenance of bridges on county boundary lines.

separated town, it shall be the duty of the corporations of the county and the city or separated town to erect and maintain bridges over such river, stream, pond or lake. 3-4 Geo. V. c. 43, s. 452.

Mainte-
nance of
boundary
lines.

453.—(1) Boundary lines between local municipalities, including those which also form county boundary lines, shall be maintained by the corporations of such municipalities, and they shall also erect and maintain all necessary bridges on such boundary lines.

Exceptions.

(2) Subsection 1 shall not apply to boundary lines assumed by the council of the county or to such bridges as are under the provisions of this Act to be erected or maintained by another corporation. 3-4 Geo. V. c. 43, s. 453.

Local
municipali-
ties to
erect and
maintain
certain
bridges.

454. Where the council of a county passes a by-law under subsection 2 of section 436 it shall be the duty of the councils of the local municipalities to erect and maintain all necessary bridges from the erection and maintenance of which the council of the county is relieved by the by-law. 3-4 Geo. V. c. 43, s. 454.

Mainte-
nance of
boundary
lines and
bridges in
provisional
judicial
district.

455. All boundary lines and all bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between two or more local municipalities in a provisional judicial district shall be erected and maintained by the corporations of such municipalities and their councils shall have joint jurisdiction over them; and if the councils fail to agree as to the proportion of the expense to be borne by each corporation the same shall be determined by arbitration. 3-4 Geo. V. c. 43, s. 455.

Driftwood in Streams.

Keeping
rivers free
from drift-
wood, etc.

456.—(1) Where a river or a stream forms a boundary line between two or more municipalities in a county, the corporation of the county shall keep it free from all accumulations of driftwood or fallen timber.

What cor-
porations to
perform
the work
and appor-
tionment of
expense.

(2) Where the river or stream forms a boundary line between two or more counties, the duty mentioned in subsection 1 shall be performed by the corporations of the counties, and where the river or stream forms the boundary line between a county and a city or separated town, shall be performed by the corporation of the county and the corporation of the city or separated town, and in case of failure to agree in either case, as to the share or proportion of the expense incurred in performing the duty to be borne by them respectively, the same shall be determined by arbitration. 3-4 Geo. V. c. 43, s. 456.

457.—(1) Where a stream or creek is cleared of all logs, brush or other obstructions to the boundary line between a township and an adjoining township into which the stream or creek flows, the council of the township in which the stream or creek has been so cleared may give notice in writing to the corporation of such adjoining township requesting its council to clear such stream or creek through the municipality.

Keeping stream free from logs, brush, etc., in townships.

(2) It shall be the duty of such last mentioned corporation, within six months after the service of the notice, to enforce the removal of all obstructions in such stream or creek within the municipality to the satisfaction of any person whom the council of the county in which the municipality whose council gave the notice is situate, appoints to inspect the same.

Notice requiring other township to remove obstructions.

(3) If the corporation receiving the notice neglects to perform such duty, and by reason of its neglect any highway or bridge in either of the townships becomes out of repair, the corporation in default, and that corporation only, shall be responsible for the damages sustained by any person by reason of such want of repair. 3-4 Geo. V. c. 43, s. 457.

Effect of failure to perform duty.

458. Where, on account of physical difficulties or obstructions existing on a boundary line between municipalities, and in order to obtain a better line of road, a road has been heretofore or is hereafter laid out and opened which does not follow the course of such boundary line throughout, but in some place or places so deviates from it as to lie wholly within one of the municipalities, such road shall nevertheless be deemed to be, for the purposes of this Act, the boundary line between the municipalities; and a river, stream, pond or lake which crosses it where it so deviates shall be deemed to be a river, stream, pond or lake crossing a boundary line within the meaning of this Act. 3-4 Geo. V. c. 43, s. 458.

Deviations of boundary lines.

459. Every iron, steel, concrete or stone bridge constructed by the corporation of a county shall be built in accordance with specifications approved by the engineer of highways of the Department of Public Works. 3-4 Geo. V. c. 43, s. 459.

Specifications for certain bridges.

460.—(1) Every highway and every bridge shall be kept in repair by the corporation the council of which has jurisdiction over it, or upon which the duty of repairing it is imposed by this Act, and in case of default, the corporation shall be liable for all damages sustained by any person by reason of such default.

Liability for repair of public roads, etc.

(2) No action shall be brought against a corporation for the recovery of damages occasioned by such default, whether the want of repair was the result of nonfeasance or misfeasance, after the expiration of three months from the time when the damages were sustained.

Limitation of actions.

Snow or ice
on sidewalks.

(3) Except in case of gross negligence a corporation shall not be liable for a personal injury caused by snow or ice upon a sidewalk.

Notice of
action.

(4) No action shall be brought for the recovery of the damages mentioned in subsection 1 unless notice in writing of the claim and of the injury complained of has been served upon or sent by registered post to the head or the clerk of the corporation, in the case of a county or township within thirty days, and in the case of an urban municipality within seven days after the happening of the injury, nor unless where the claim is against two or more corporations jointly liable for the repair of the highway or bridge, the prescribed notice was given to each of them within the prescribed time.

When dis-
penssed with.

(5) In case of the death of the person injured, failure to give the notice shall not be a bar to the action, and, except where the injury was caused by snow or ice upon a sidewalk, failure to give or insufficiency of the notice shall not be a bar to the action, if the court or judge before whom the action is tried is of the opinion that there is reasonable excuse for the want or insufficiency of the notice and that the corporation was not thereby prejudiced in its defence.

To what
roads applic-
able.

(6) This section shall not apply to a road, street or highway laid out or to a bridge built by a private person or by a body corporate until it is established by by-law of the council or otherwise assumed for public use by the corporation.

When
Corporation
not respon-
sible for acts
of others.

(7) Nothing in this section shall impose upon a corporation any obligation or liability in respect of any act or omission of any person acting in the exercise of any power or authority conferred upon him by law, and over which the corporation had no control, unless the corporation was a party to the act or omission, or the authority under which such person acted was a by-law, resolution or license of its council.

When cor-
poration not
liable for
damages.

(8) A corporation shall not be liable for damages under this section unless the person claiming the damages has suffered by reason of the default of the corporation a particular loss or damage beyond what is suffered by him in common with all other persons affected by the want of repair.

Relief from
obligation to
rebuild.

(9) Where a bridge which it is the duty of a corporation to repair is destroyed or so damaged that it is necessary to rebuild it the Municipal Board may, upon the application of the corporation, relieve it from the obligation to rebuild the bridge, if the Board is satisfied that it is no longer required for the public convenience or that the re-building of it would entail a larger expenditure than would be reasonable, having regard to the use that would be made of the bridge if it were rebuilt.

Conditions
of granting
relief.

(10) The relief may be granted on such terms and conditions as the Board may deem just, and such notice of the application shall be given as the Board may direct.

(11) The next preceding two subsections shall not affect the costs of any pending action. 3-4 Geo. V. c. 43, s. 460. Costs of pending actions.

461. A corporation shall, in the absence of an agreement to the contrary, keep in repair all crossings, sewers, culverts and approaches, sidewalks and other works made or constructed by it or by any person with the permission of its council, upon any toll road in or passing through the municipality, and in case of default shall be liable as in the case provided for by section 460. 3-4 Geo. V. c. 43, s. 461. Repair of crossings, etc., made by leave of municipality on toll roads.

462.—(1) Where two or more corporations are jointly liable for keeping in repair a highway or bridge, there shall be contribution between them as to the damages sustained by any person by reason of their default in so doing. Apportionment of damages.

(2) Any action by any such person shall be brought against all such corporations, and any of them may require that the proportions in which such damages and the costs of the action are to be borne by them shall be determined in the action. Action to be against all corporations.

(3) In settling such proportions, either in the action or otherwise, regard shall be had to the extent to which each corporation was responsible, either primarily or otherwise, for the act or omission by reason of which the damages became payable or are recoverable and the damages and costs shall be apportioned between them accordingly. 3-4 Geo. V. c. 43, s. 462. What to be taken into account.

463.—(1) Where an action may be brought against a corporation by a person who has sustained damages by reason of its default in keeping in repair a highway or bridge, no action shall be brought by him in respect of it or to recover such damages or any part of them against any member of the council or officer or employee of the corporation personally, but the remedy therefor shall be against the corporation. Members of council and employees not liable for non-repair of highways.

(2) A mere contractor with the corporation or an officer or employee who is such contractor, by reason of whose act or omission the damages were caused, shall not be deemed an employee within the meaning of subsection 1. 3-4 Geo. V. c. 43, s. 463. Contractors not deemed employees.

464.—(1) Where an action is brought to recover damages sustained by reason of any obstruction, excavation or opening in or near a highway or bridge placed, made, left or maintained by any person other than the corporation or a servant or agent of the corporation, or by reason of any negligent or wrongful act or omission of any person other than the corporation or a servant or agent of the corporation, the corporation shall have a remedy over against such other person for, and may enforce payment of the damages and costs which are recovered against the corporation. Remedy over, for damages caused by non-repair against persons causing same.

Remedy over
in same
action.

(2) The corporation shall be entitled to such remedy over in the same action, if the other person is a party to the action, and it is established in the action as against him that the damages were sustained by reason of an obstruction, excavation, or opening so placed, made, left or maintained by him.

Adding
party de-
fendant.

(3) The corporation may in such action have the other person, if not already a defendant, added as a party defendant or third party for the purposes of the remedy over; and such person may defend the action as well against the plaintiff's claim as against the claim of the corporation.

Where
person caus-
ing damage
has not
been made
a party.

(4) If such person is not a party defendant, or is not added as a party defendant or third party, or if the corporation has paid the damages before an action is brought to recover the same, or before a recovery thereof in an action against the corporation, the corporation shall have the remedy over by action against such person, but he shall be deemed to admit the validity of the judgment obtained against the corporation only where a notice has been served on him, pursuant to Rules of Court, or where he has admitted or is estopped from denying the validity of such judgment.

When a
fresh action
is necessary.

(5) Where such notice has been served, and there has been no such admission or estoppel, and such person has not been made a party defendant or third party to the action against the corporation, or where the damages have been paid without action or without recovery of judgment against the corporation, the liability of the corporation for such damages, and the fact that the damages were sustained under such circumstances as to entitle the corporation to the remedy over, must be established in the action against such person to entitle the corporation to recover in the action. 3-4 Geo. V. c. 43, s. 464.

Determina-
tion of dis-
putes as to
duty to erect
and maintain
bridge or
repair high-
way.

465.—(1) Whenever there is a dispute between the councils of any two or more corporations as to the corporation on which the obligation to build and maintain or to build or maintain a bridge or to keep in repair a highway rests, the Supreme Court may upon the application of any or either of the corporations determine the matter in dispute on an originating motion; or the court, if of opinion that the matter in dispute cannot satisfactorily be determined on an originating motion, or that for any other reason it ought not to be so determined, may direct that an action may be brought or that an issue be tried for the purpose of determining the matter in dispute, and the Court may in either case compel by mandamus the performance of the obligation by the corporation upon which it is found to rest.

Disputes as
to apportion-
ment of cost
of erecting
and main-
taining.

(2) Except in the cases provided for by section 468, where the dispute is as to the proportions in which the corporations should contribute to the cost of erecting and maintaining or of erecting or maintaining a bridge or of keeping

in repair a highway, the matter in dispute shall be determined by arbitration. 3-4 Geo. V. c. 43, s. 465.

466.—(1) Where an allowance for road was not reserved in the original survey on a township boundary or part of it, the councils of the townships may establish and lay out a highway on such boundary or part of it. Laying out highway where no original allowance.

(2) The councils of any or either of the municipalities may pass a by-law for establishing and laying out such a highway and for acquiring the land requisite for the one-half of it which lies within the limits of its municipality. Passing by-law for.

(3) The clerk shall within four days after the passing of the by-law transmit by registered post to the clerk of each of the other townships a copy of the by-law certified under his hand and the seal of the corporation to be a true copy. Copy of by-law to be sent to other townships.

(4) If the other council or councils do not within six months after such notice pass a by-law or by-laws in similar terms, the council by which the by-law was passed may require the question of establishing and laying out the proposed highway to be determined by arbitration. Arbitration.

(5) The arbitrators shall determine whether or not the proposed highway shall be established and laid out, and if they determine that it shall be established and laid out they shall also determine in what proportions the cost of the site of it shall be borne by each of the corporations. Power of arbitrators.

(6) If it is determined by the arbitrators that the proposed highway shall be established and laid out, the other councils shall forthwith after notice of the award pass the necessary by-laws for establishing and laying out the proposed highway and for acquiring the land requisite for the one-half of it which will lie within the limits of their respective municipalities, and for otherwise carrying out the provisions of the award, and shall proceed with all reasonable despatch to carry into effect the provisions of the by-law. Duties of other townships when arbitrators determine that highway should be laid out.

(7) If it is determined by the arbitrators that the proposed highway shall not be established and laid out, no further proceedings shall be taken under this section within two years from the date of the award or within such time not exceeding in all four years, as the arbitrators may by their award determine. 3-4 Geo. V. c. 43, s. 466. Effect of determination against laying out highway.

467.—(1) Where a highway or bridge is under the joint jurisdiction of the councils of two or more municipalities and they are unable to agree as to any action which one or more of them desire to be taken in the exercise of such joint jurisdiction, any of them may require that the matter in dispute shall be determined by arbitration, and in that case shall prepare a draft by-law for carrying into effect what it is de- Disputes as to bridges or highway to be settled by arbitration.

sired shall be done, and serve a copy of it on the clerk of the other municipalities with a notice that it is its desire that such a by-law shall be passed.

Award.

(2) If it is determined by the arbitrators that what is proposed ought to be done, they shall by their award so direct, and in that case each council shall forthwith after notice of the award pass a by-law in accordance with the draft by-law and shall, without unnecessary delay, do all things which on its part are necessary for carrying into effect the objects of the by-law. 3-4 Geo. V. c. 43, s. 467.

Determination by county council of disputes as to opening or maintaining township boundary lines.

468.—(1) Where the councils of the townships having joint jurisdiction over a township boundary line fail to agree as to the character of the work to be done in opening, maintaining or repairing it, or as to the proportions in which the cost of the work is to be borne by the corporations of the townships respectively, any or either of such councils may apply to the council of the county to determine the matters in dispute.

Enforcement by county of opening up or repair on petition of ratepayers.

(2) Where the township councils having the joint jurisdiction over it neglect or refuse to open up and make, maintain and keep in repair any such boundary line, a majority of the ratepayers resident on land abutting on it may apply to the council of the county to enforce the opening up and the making, maintaining and keeping in repair of such boundary line.

What matters to be determined by county council.

(3) The application shall be by petition and the council of the county after notice to all the corporations interested and after hearing them and the petitioning ratepayers, if the petition is by ratepayers, or such of them as desire to be heard, shall determine in the case provided for by subsection 1, what work shall be done and the proportions in which the cost of it shall be borne by the corporations of the townships respectively, and in the case provided for by subsection 2, whether the boundary line shall be opened up and the proportions in which the corporations of the townships shall respectively bear the cost of opening up, making, maintaining and keeping in repair the boundary line, and in either case may direct that the statute labour or part of it shall be applied by each of the corporations for such purposes.

Appointment of commissioners to enforce order.

(4) The determination and direction of the council of the county shall be embodied in an order or resolution, and the council shall appoint one or more commissioners to execute and enforce any direction so made.

Townships to have opportunity of doing the work.

(5) If the councils of the townships intimate to the council of the county or to the commissioners their intention to proceed with the work directed to be done and to conform to the direction of the council of the county, the commissioners shall delay proceedings to carry out the work directed

to be done for a reasonable time to enable the township councils to do it, but if the work is not proceeded with with such despatch as the commissioners deem necessary they shall themselves complete the work.

(6) The cost of any work done by the commissioners shall be by them apportioned between the corporations of the townships in accordance with the order or resolution of the council of the county, and the commissioners shall certify to the treasurer of the county the amount payable by each of such corporations, and the treasurer shall retain the same out of any money in his hands belonging to the corporation, but if there is not in the hands of the treasurer any such money or not sufficient to pay the amount payable by the corporation, the amount payable or the amount of the deficiency, as the case may be, shall be added to the county rate payable by the corporation in default.

Apportionment of and collection of cost of work of commissioners.

(7) This section shall not apply to a township boundary line which is also a county boundary line. 3-4 Geo. V. c. 43, s. 468.

County boundaries not affected.

469. Where the councils of the townships having joint jurisdiction over a county boundary line are unable to agree as to

Determination by Municipal Board of disputes re deviation of county boundary lines.

- (a) the necessity for a deviation of the road from the boundary line, or
- (b) the location of the deviation, or
- (c) the use of an existing highway in lieu of a deviation, or
- (d) the proportions in which the cost of opening, making and maintaining the deviation or the existing highway to be used in lieu of a deviation is to be borne,

any of the councils may apply to the Municipal Board to determine the matter in dispute, and the Board or any member of it, after notice to the corporations interested and hearing such of them as desire to be heard, shall determine the matter in dispute and may make such order as may be deemed just, and such order shall be final and not subject to appeal. 3-4 Geo. V. c. 43, s. 469.

470.—(1) The Ontario Motor League may at its own expense and subject to such regulations as the council of the municipality may prescribe, erect and maintain guide posts at road intersections and mile posts on the highways to indicate distances and danger signals at hills which may be deemed to be dangerous or unsafe for travellers.

Power of Ontario Motor League to erect guide and mile posts, etc.

(2) Every such guide post, mile post and danger signal shall be so placed as not to obstruct the highway or to endanger

How same to be erected.

ger the safety of travellers, and nothing shall appear on or be affixed or attached to it but a notice indicating the purpose which the guide post, mile post or danger signal is designed to serve.

Penalty.

(3) Every person who contravenes any of the provisions of subsection 2 shall incur a penalty of \$5 for every such contravention.

Defacing posts erected.

(4) No person shall cut or throw down or injure or deface any such guide post, mile post or danger signal, and for every contravention of this subsection the person offending shall incur a penalty not exceeding \$50. 3-4 Geo. V. c. 43, s. 470.

Powers of C. W. A. as to erection of guide posts, etc.

471. The Canadian Wheelman's Association of the Dominion of Canada shall have the like power as is by the next preceding section conferred on the Ontario Motor League, and all the provisions of that section shall apply to guide posts, mile posts and danger signals erected or maintained by the Association; but where either the League or the Association has exercised the powers conferred upon it upon any part of a highway the other shall not have the right to exercise its powers thereon. 3-4 Geo. V. c. 43, s. 471.

Establishing, widening, stopping up, etc., highways, laying out boulevards, etc.

472.—(1) The council of every municipality may pass by-laws,

- (a) for establishing and laying out highways;
- (b) for widening, altering or diverting any highway or part of a highway;
- (c) for stopping up any highway or part of a highway and for leasing or selling the soil and freehold of a stopped up highway or part of a highway;
- (d) for setting apart and laying out such parts as may be deemed expedient of any highway for the purpose of carriage ways, boulevards and sidewalks, and for beautifying the same, and making regulations for their protection;
- (e) for permitting subways for cattle under and bridges for cattle over any highway.

Exceptions as to exercise of power.

(2) Nothing in subsection 1 shall authorize a council to interfere with any public road or bridge vested in the Crown in right of Ontario or in any public Department, Board or officer of Ontario.

Approval of Lieutenant-Governor to by-law.

(3) A by-law passed under the authority of clause (b) or clause (c) of subsection 1 in respect of an allowance for road reserved in the original survey along or leading to the bank of any river or stream or on the shore of any lake or other water shall not take effect until it has been approved by the Lieutenant-Governor in Council.

(4) The powers conferred by subsection 1 shall not be exercised without the consent of the Governor-General in Council in respect of, Approval of Governor-General to by-law.

- (a) any street, lane or thoroughfare made or laid out by His Majesty's Ordinance or the Principal Secretary of State in whom the Ordinance estates became vested under the Act of the late Province of Canada passed in the 19th year of the reign of Her late Majesty Queen Victoria, Chapter 45, or under Chapter 24 of the Consolidated Statutes of Canada, or made or laid out by the Government of Canada;
- (b) any land owned by the Crown in right of the Dominion of Canada;
- (c) any bridge, wharf, dock, quay or other work vested in the Crown in right of the Dominion of Canada;

or so as to interfere with any land reserved for military purposes or with the integrity of the public defences, and the consent of the Governor-General in Council shall be recited in the by-law, but the by-law shall not be quashed or open to question because of the omission to recite it if the consent has been in fact given.

(5) The powers conferred by clause (c) of subsection 1 shall not be exercised by the council of a county in respect of a highway or part of a highway within the limits of a city, town or village in or adjoining the county. Limitation of power of county.

(6) A by-law of the council of a township, passed under the authority conferred by clause (c) of subsection 1, in the case of a township in unorganized territory, shall not have any force unless and until approved by a judge of the District Court of the district in which the township is situated, and in other cases unless and until confirmed by a by-law of the council of the county in which the township is situated passed at an ordinary meeting of the council held not sooner than three months or later than one year after the passing of the by-law of the council of the township. 3-4 Geo. V. c. 43, s. 472. Approval of district judge or county council to township by-law.

473.—(1) A by-law shall not be passed for stopping up, altering or diverting any highway or part of a highway if the effect of the by-law will be to deprive any person of the means of ingress and egress to and from his land or place of residence over such highway or part of it unless in addition to making compensation to such person, as provided by this Act, another convenient road or way of access to his land or place of residence is provided. Right of ingress and egress not to be taken away by closing road.

By law,
when to
take effect.

(2) The by-law shall not take effect until the sufficiency of such road or way of access has been agreed upon or unless and until, if not agreed upon, its sufficiency has been determined by arbitration as hereinafter mentioned.

Arbitration
to determine
sufficiency of
road.

(3) If such person disputes the sufficiency of the road or way of access provided the sufficiency of it shall be determined by arbitration under this Act, and if the amount of compensation is also not agreed upon both matters shall be determined by one and the same arbitration.

By-law void
if road
insufficient.

(4) If the arbitrators determine that the road or way of access provided is insufficient they may by their award determine what road or way of access should be provided, and in that case, unless such last mentioned road or way of access is provided, the by-law shall be void and the corporation shall pay the costs of the arbitration and award. 3-4 Geo. V. c. 43, s. 473.

Possession
of unopened
road allow-
ance.

474.—(1) A person in possession of and having enclosed with a lawful fence that part of an original allowance for road upon which his land abuts which has not been opened for public use by reason of another road being used in lieu of it or of another road parallel or near to it having been established by law in lieu of it shall as against every person except the corporation the council of which has jurisdiction over the allowance for road be deemed to be legally possessed of such part until a by-law has been passed by such council for opening it.

Notice of
by-law to be
given.

(2) No such by-law shall be passed until notice in writing of the intention to pass it has been given to the person in possession at least eight days before the meeting of the council at which the by-law is to be taken into consideration. 3-4 Geo. V. c. 43, s. 474.

Publication
of by-law,
etc.

475.—(1) Before passing a by-law for stopping up, altering, widening, diverting, selling or leasing a highway or for establishing or laying out a highway,

(a) notice of the proposed by-law shall be published at least once a week for four successive weeks, and in the case of a village or township shall be posted up for at least one month in six of the most public places in the immediate neighbourhood of the highway or proposed highway, and

(b) the council shall hear in person or by his counsel, solicitor or agent any person who claims that his land will be prejudicially affected by the by-law and who applies to be heard.

Notices.

(2) The clerk shall give the notices upon payment by the applicant, if any, for the by-law, of the reasonable expenses to be incurred in so doing. 3-4 Geo. V. c. 43, s. 475.

476. Where the owners of and other persons interested in the land required to be taken for the highway consent in writing to the passing of the by-law for establishing and laying it out, or where such land has been acquired by the corporation, section 475 shall not apply to the by-law. 3-4 Geo. V. c. 43, s. 476.

When publication of by-law not required.

477.—(1) Where an allowance for a sideline road between lots in a double front concession in a township was so run in the original survey that the line in the front half of the concession does not meet the line in the rear half, the council of the township may open and lay out a road to connect the ends of such lines where they do not so meet.

Side lines in double front concessions.

(2) The by-law shall provide that the road shall be opened and laid out in accordance with a survey to be made by an Ontario Land Surveyor named in the by-law.

Term of by-law.

(3) A judge of the County or District Court of the county or district in which the township is situate on the application of any person over whose land the connecting road will pass who objects to the surveyor appointed by the by-law may appoint another Ontario Land Surveyor in the place of the one so appointed.

Appointment of another surveyor by Judge.

(4) The application shall be made within one month after the service of the copy of the by-law on the applicant and at least five days' notice of the time when and the place where it will be heard by the judge shall be served upon every other person over whose land the connecting road will pass and upon the clerk of the municipality.

Application for appointment.

(5) The surveyor appointed by the by-law or, if another is appointed by the judge in his place, the surveyor so appointed shall determine the compensation to be paid to the persons whose lands are taken for the connecting road, and the amount so determined shall be paid to them by the corporation of the township.

Compensation, determination as to.

(6) The determination of the surveyor as to the compensation shall be final. 3-4 Geo. V. c. 43, s. 477.

Determination, final.

478.—(1) Where the council of a municipality desiring to open an original allowance for road has by mistake opened a road which was intended to be, but is not wholly or partly, upon such allowance the land occupied by the road as so opened shall be deemed to have been expropriated under a by-law of the corporation, and no person on whose land such road or any part of it was opened shall be entitled to bring or maintain an action for or in respect of what was done or to recover possession of his land, but he shall be entitled to compensation under and in accordance with the provisions of this Act as for land expropriated under the powers conferred by this Act.

Mistakes in opening road allowances.

When right
to compensa-
tion barred.

(2) The right to compensation shall be forever barred if the compensation is not claimed within one year after the land was first taken possession of by the corporation. 3-4 Geo. V. c. 43, s. 478.

Width of
highways.

479.—(1) No municipal council or owner of land shall lay out any highway less than 66 feet in width or, except in the case of a city or town, more than 100 feet in width.

Exception.

(2) Subsection 1 shall not apply to a township in unorganized territory, and a highway less than 66 feet in width may be laid out by the council of any such township subject to and in accordance with the regulations of the Department of Lands, Forests and Mines.

Assent of
Council or
Judge
required.

(3) No highway shall be laid out in any municipality by any owner of land without the sanction of the council of the municipality or if its sanction is refused, without the approval of a judge of the County or District Court of the county or district in which the land lies, given after notice to the corporation. 3-4 Geo. V. c. 43, s. 479.

Dwelling
houses on
narrow
streets.

480. The council of an urban municipality may pass by-laws for regulating the erection or occupation of dwelling houses on narrow streets, lanes or alleys or in crowded or unsanitary districts. 3-4 Geo. V. c. 43, s. 480.

Power to
regulate and
prohibit
erection of
dwelling
houses.

481.—(1) The council of a city having a population of not less than 50,000 may pass by-laws for

- (a) prohibiting the erection or occupation of dwelling houses on highways, lanes or alleys of less width than that prescribed by the by-law;
- (b) prescribing the minimum area of vacant land which shall be attached to and used with any dwelling house thereafter erected, as the court-yard or curtilage of it;
- (c) regulating the manner in which buildings intended to be occupied as dwelling houses are to be constructed within the municipality or within any defined area of it;
- (d) prohibiting the erection of dwelling houses or the alteration of other buildings for the purpose of adapting them for use as dwelling houses, if the same front on a highway less than 40 feet in width, unless the street has been established as a highway by by-law of the council or otherwise assumed for public use by the corporation.

Publication
of by-law.

(2) A by-law for any of the purposes mentioned in subsection 1 before the final passing of it shall be published in full twice in each week for four consecutive weeks in two

newspapers published in the city with a notice appended thereto, stating the date on which the proposed by-law will be taken into consideration by the council. 3-4 Geo. V. c. 43, s. 481.

482. By-laws may be passed—

(1) By the council of every municipality for granting aid to the corporation of any immediately adjoining municipality towards opening, widening, maintaining or improving any highway within such municipality or constructing, maintaining or improving any bridge therein. Granting aid for opening or improving, etc., highways.

(2) By the council of every local municipality for granting aid to the corporation of the county in which the municipality is situate towards opening and making any new road on the boundary of the municipality or constructing any new bridge on such boundary. By local municipalities to county.

(3) By the councils of cities and towns for granting aid to the corporation of a township in the county in which the city or town is territorially situate or in an adjoining county towards opening, widening, maintaining or improving any highway in such township which constitutes or is to constitute or forms or is to form part of a highway leading to such city or town, or towards constructing, maintaining or improving any bridge forming or which is to form part of such highway. By cities and towns to township.

(4) By the councils of counties for granting aid towards making, improving or maintaining any county or township boundary line. By counties to towns, villages and townships, etc.

(5) By the councils of counties for granting aid to the corporation of any town, village or township towards,

(a) opening any new highway or constructing any new bridge in the municipality;

(b) opening, widening, maintaining or otherwise improving any highway leading from or passing through the municipality into a county road, or constructing, maintaining or improving any bridge forming, or which is to form, part of such highway.

(6) By the councils of townships,

By townships to county.

(a) for granting aid to the corporation of a county adjoining that in which the township is situate towards opening, widening, maintaining or improving any highway lying between the township and another municipality in the adjoining county, or towards constructing, maintaining or improving any bridge on such highway;

(b) for granting aid for the like purposes to the corporation of the county in which the township is situate in respect of any highway or bridge within the township assumed as a county road or bridge or agreed to be so assumed on condition that such aid shall be granted.

By townships
in unorganized
territory.

(7) By the council of a township in unorganized territory for opening, widening, maintaining or improving any highway or constructing, maintaining or improving any bridge in an adjoining municipality or in a municipality situate in such adjoining municipality or in an adjoining unorganized township or in adjoining unsurveyed territory or for granting aid to any adjoining municipality or to any municipality situate in such adjoining municipality for any of such purposes.

Character of
aid.

(8) The aid may be granted by way of loan or otherwise.
3-4 Geo. V. c. 43, s. 482.

483. By-laws may be passed by the council of every municipality

Boulevards.

1. For setting apart portions of the highways at or near the sides of them for the purpose of boulevards, and for permitting the owners of land abutting on a highway to construct, make and maintain at their own expense boulevards on that part of the highway which may be set apart for that purpose, but not so as unreasonably to confine, impede or incommode public traffic.

Regulations.

2. For regulating the construction, maintenance and protection of such boulevards.

Areas and
openings
under
highways.

3. For permitting the owners of land to make, maintain and use areas under and openings to them in the highways and sidewalks, for prescribing the terms and conditions upon which the same shall be made, maintained and used, and for making such annual or other charge for the privilege conferred by the by-law as the council may deem reasonable.

Annual
charge for.

(a) Such annual or other charge shall be payable and payment of it may be enforced in like manner as taxes are payable and payment of them may be enforced.

Liability of
corporation
for damages.

(b) The corporation shall be liable for any want of repair of the highway which may result from the construction, maintenance and use of any such area or opening, but shall be entitled to the remedy over provided for by section 464 against the person by whose act or omission the want of repair is caused.

Bicycle and
foot paths.

4. For setting apart so much of any highway as the council may deem necessary for the purposes of a bicycle path or of a foot path.

- (a) Any person who rides or drives a horse or other beast of burden or a motor vehicle, wagon, carriage or cart over or along any such path shall incur a penalty of not less than \$1 or more than \$20.

5. For raising money by toll on any highway, bridge or other work to defray the expense of making, maintaining or repairing it. Tolls on highways and bridges.

6. For granting to any person in consideration or part consideration of planking, gravelling or macadamizing a highway, or of building a bridge, the tolls fixed by by-law to be levied on the work for a period of not more than twenty-one years after the work has been completed, and after such completion has been declared by a by-law of the council. Granting right to take tolls.

- (a) The grantee of the tolls shall, during such period, maintain and keep in repair the highway or bridge.

7. Subject to the rights of a Crown timber licensee under *The Crown Timber Act*, for preserving or selling the timber or trees on any original allowance for road. Selling timber on road allowance. Rev. Stat. c. 29.

8. For making regulations as to pits, precipices and deep waters and other places dangerous to travellers. Regulations re pits, precipices, etc.

9. For acquiring either alone or jointly with the corporation of another municipality such land in either municipality as may be deemed necessary for procuring therefrom stone or gravel for use in making, maintaining or repairing the highways under the jurisdiction of the council or councils. Stone and gravel pits.

10. For entering upon and searching for and taking from land within the municipality, or with the consent of the council of an adjacent municipality expressed by by-law or resolution from land in such municipality, such timber, gravel, stone or other material as may be necessary for constructing, maintaining and keeping in repair the highways and bridges. Power to enter upon land to take timber, gravel, etc.

- (a) The compensation to be paid to the owners of and other persons interested in the land for the timber, gravel, stone or other material shall be agreed upon or determined by arbitration before the power to take it is exercised. Compensation—how determined.

- (b) The compensation may be a lump sum for the privilege of taking as much timber, stone, gravel or other material as may be required, or a sum determined by the quantity taken, or a price by the cubic yard or otherwise for what may be taken, as may be agreed on or be determined by the arbitrators.

- (c) Where it is necessary in the exercise of any of the powers conferred by the by-law to pass through or over the land of another person, the corporation may do so as occasion may require, doing no unnecessary damage, but before doing so the compensation to be paid for the exercise of such power shall be agreed upon or determined by arbitration.

Purchasing
or renting
road making
machinery.

11. For purchasing conditionally or otherwise, or for renting for a term of years or otherwise, roadmaking machinery and appliances for the purposes of the corporation, and for borrowing money for the purpose of paying the purchase price for any period not exceeding five years and for issuing debentures for the money so borrowed, or for issuing to the vendor debentures payable within that period in payment of the purchase money.

- (a) The debentures issued under this paragraph shall be on the instalment plan. 3-4 Geo. V. c. 43, s. 483.

Taking stock
in bridge
company.

484. The council of every municipality may pass by-laws for subscribing for any number of shares in the capital stock of or for lending money to or guaranteeing the payment of any money borrowed by a bridge company incorporated for the purpose of erecting and maintaining any bridge within, or partly within, the municipality or between it and another municipality. 3-4 Geo. V. c. 43, s. 484.

Power to
agree with
owners of
toll road
as to the
expenditure
of statute
labour
thereon.

485. The council of every municipality through or adjoining which any toll road passes may enter into an agreement with the owner of the road to expend on it for a limited number of years such statute labour or sum of money as may be agreed upon and that at the end of the term of years agreed upon such road shall be toll free and shall become the property of the corporation of the municipality in which it is situate. 3-4 Geo. V. c. 43, s. 485.

Joint works
with other
municipali-
ties.

486. The council of a local municipality may pass by-laws for entering into and performing any agreement with any other council in the same county for executing, at their joint expense and for their joint benefit, any work within the jurisdiction of the council. 3-4 Geo. V. c. 43, s. 486.

TREES, PLANTING, PROTECTION AND REMOVAL OF.

487. The council of every municipality may pass by-laws.

Removal of
trees.

1. For causing any tree, planted or growing on any highway, square, lane or other public communication, to be removed if and when deemed necessary for any purpose of public improvement; but

(a) The owner of the adjacent land shall be entitled to ten days' notice of the intention of the council to remove such tree, and to be recompensed for his trouble in planting and protecting it, but neither he nor the occupant of the land shall be entitled to any further or other compensation.

(b) Neither the owner of the adjacent land nor any pathmaster or other public officer, nor any other person, shall remove or cut down or injure any such tree without the express permission of the council.

2. For planting and preserving shade and ornamental trees upon any highway, and for granting to any person or association of persons money to be expended for such purposes.

Planting trees.

3. For prohibiting the injuring or destroying of trees or shrubs on the highways, planted or preserved for shade or ornament.

Ornamental trees.

4. For authorizing the park commissioner or any officer appointed for that purpose or a committee of the council to,

Authority to plant, trim and cut down, etc., trees.

(a) plant or cause to be planted trees in the highways of the municipality;

(b) trim or cause to be trimmed all trees on private property the branches of which extend over a highway;

(c) cut down or remove or cause to be cut down or removed all decayed trees;

(d) remove or transplant or cause to be removed or transplanted any tree planted or growing in any highway, square, lane or other public communication after 48 hours' notice in writing to the occupant of the land opposite to which the tree is planted or growing, but no live tree, unless within 30 feet of another tree, shall be removed without the consent of such occupant.

(1a) The notice mentioned in clause (d) may be given by leaving it with a grown-up person resident upon the land, or if the land is unoccupied by posting it in a conspicuous place on the land.

Service of notice.

(1b) Neither the corporation nor any person acting under the authority of a by-law for the purposes mentioned in this paragraph shall incur any liability by reason of anything done under the authority of the by-law if reasonable care, skill and judgment are exercised in the doing of it, nor shall the corporation be liable to make compensation to the owner or occupant of the land further than as provided by this section.

Non-liability for acts done.

General powers not affected.

(1c) Nothing in this paragraph shall limit the powers conferred by paragraphs 1, 2 and 3. 3-4 Geo. V. c. 43, s. 487.

Cutting down trees on either side of highway.

488.—(1) The council of a county or a township may pass by-laws for requiring that on each or on either side of a highway or part of a highway which passes through a wood the trees, except such as are reserved by the owner for ornament or shelter, shall for a space not exceeding 25 feet from the limits of the highway or part of it be cut down and removed by the owner or occupant of the land within a time to be appointed by the by-law, and if he fails to do so authorizing such person as may be named in the by-law to cut down and remove them.

Failure of owner or occupant to cut down, etc.

(2) Where the owner or occupant fails to cut down and remove such trees in accordance with the requirement of the by-law the person named in the by-law for that purpose may cut down and remove them, and the trees may be used for the construction, improvement or repair of any highway or bridge in the road division in which the land is situate or may be sold by him to defray the expenses incurred in carrying out the provisions of the by-law. 3-4 Geo. V. c. 43, s. 488.

Expenditure for works in any county of a union.

489.—(1) The councils of united counties may pass by-laws for raising or borrowing money to be expended exclusively in any one of the counties forming the union.

What members to vote on by-law.

(2) None of the members of the council but those representing local municipalities in the county in which the expenditure is to be made shall vote upon the by-law except in the case of an equality of votes, when the warden shall have the casting vote.

What property assessable for rates.

(3) The sums to be raised by taxation for the purpose of making any such expenditure and the sums required to be raised to pay the principal and interest of any money borrowed for that purpose shall be assessed and levied only upon the rateable property in the county in which the expenditure is to be made.

Debentures, issue of.

(4) Every debenture issued under the authority of the by-law shall be issued as the debenture of the corporation of the united counties, but it shall be stated in the body of it that the payment of the principal and interest is to be provided for by a special rate upon the rateable property in the county in which the expenditure is to be made and upon that property only. 3-4 Geo. V. c. 43, s. 489.

Prizes for best kept roadsides, etc.

490. The council of a township may pass by-laws for granting a prize not exceeding \$10 for the best kept roadside, farm front and farm house surroundings, in each public school section in the township, and for prescribing the conditions upon which such prizes may be competed for and awarded. 3-4 Geo. V. c. 43, s. 490.

491. The councils of all municipalities may pass by-laws.

1. For prohibiting or regulating the obstructing, encumbering, injuring or fouling of highways or bridges. Obstruction of highways.
2. For requiring doorsteps, porches or other erections or things projecting into or over any highway to be removed by the owner or occupant of the land in connection with which they exist. Removal of doorsteps, etc.
3. For prohibiting the building or maintaining of fences on any highway or the placing or depositing of firewood or any other thing calculated to obstruct it or to obstruct or interfere with public travel on it, on any highway or bridge, and for requiring the removal of them by the person by whom the same are or were so built, maintained, placed or deposited. Prohibiting building or maintaining fences on highways.
- (a) Unless the by-law otherwise provides, a by-law passed under the authority of paragraph 3 shall not extend or apply to a worm fence which is not for more than half its width upon the highway, or to materials to be used for the construction or repair of a highway or bridge, if they do not interfere with the use of it for public travel. Worm fences.
4. For prohibiting the throwing, placing or depositing on any highway or bridge of dirt, filth, glass, hand-bills, paper or other rubbish or refuse, or the carcass of any animal. 3-4 Geo. V. c. 43, s. 491. Prohibiting throwing dirt, glass, etc., on highways.

492.—(1) Where a highway for the site of which compensation was paid has heretofore or shall hereafter be established and laid out in place of the whole or any part of an original allowance for road, or where the whole or any part of a highway has heretofore been or shall hereafter be legally stopped up, if the council determines to sell such original allowance or such stopped up highway, the price at which it is to be sold shall be fixed by the council, and the owner of the land which abuts on it shall have the right to purchase the soil and freehold of it at that price. Selling original road allowance.

(2) Where there are more owners than one, each shall have the right to purchase that part of it upon which his land abuts to the middle line of the stopped up highway. Prior right of owners of abutting lands.

(3) If the owner does not exercise his right to purchase within such period as may be fixed by the by-law or by a subsequent by-law, the council may sell the part which he has the right to purchase to any other person at the same or a greater price. 3-4 Geo. V. c. 43, s. 492. Sale by council to other persons.

Where owner of land taken for highway entitled to original road allowance.

493.—(1) Where a highway for the site of which compensation was not paid has been laid out and opened in the place of the whole or any part of an original allowance for road, the owner of the land appropriated for the highway or his successor in title if he owns the land which abuts on such allowance shall be entitled to the soil and freehold of it, and if it has not already been conveyed to him or his predecessor in title, to a conveyance of it.

When more than one owner.

(2) Where the land which so abuts is owned by more persons than one each shall be entitled to and to a conveyance of the soil and freehold of that part of the allowance upon which his land abuts to the middle line of the allowance.

Where owner of land taken owns no land abutting on allowance.

(3) If the owner of the land appropriated for the highway or his successor in title does not own any land abutting on the allowance and the allowance is sold by the council, he shall be entitled to a part of the purchase money which bears the same proportion to the whole purchase money as the value of the part of the site of the new highway which belonged to him bears to the value of the whole site. 3-4 Geo. V. c. 43, s. 493.

When person in possession entitled to original allowance.

494.—(1) A person in possession of the whole or any part of an original allowance for road in place of which he or any of his predecessors in title has laid out and opened a new road or street without receiving compensation for the site of it shall be entitled to the soil and freehold of such allowance or part of it, and if it has not already been conveyed to him or to his predecessor in title to a conveyance of it.

Where several persons in possession.

(2) Where there are more persons than one in such possession each shall be entitled to and to a conveyance of the soil and freehold of that part of the allowance upon which his land abuts to the middle line of the allowance.

Requirement as to assumption of road by corporation.

(3) If the road has not been adopted by by-law of the council or otherwise assumed for public use by the corporation this section shall not apply until the new road or street is adopted by by-law of the council, and the council by by-law declares that the original allowance is in its opinion useless to the public.

Application of section.

(4) This section shall apply to roads and to streets hereafter laid out and opened and to such as have been heretofore laid out and opened. 3-4 Geo. V. c. 43, s. 494.

Stone or gravel on roads during sleighing.

495. Stone, gravel or other material shall not be put on any highway for the purpose of rebuilding or repairing it during the winter months so as to interfere with the use of sleighs unless another convenient highway is provided while the rebuilding or repairing is being done. 3-4 Geo. V. c. 43, s. 495.

496.—(1) The Lieutenant-Governor in Council may stop up, alter, widen or divert any highway or part of a highway in a Provisional Judicial District not being within an organized municipality, and may sell or lease the soil and freehold of any such highway or part of a highway which he has stopped up or which in consequence of an alteration or diversion of it no longer forms part of the highway as altered or diverted. Stopping up highways in unorganized territory.

(2) The council of a township in unorganized territory surveyed without road allowances but in which 5 per cent. of the area is reserved for highways, may pass by-laws for opening and making highways where necessary and the provisions of this Act as to compensation for lands taken or injuriously affected by the exercise of the powers conferred by this section shall not apply. 3-4 Geo. V. c. 43, s. 496. Opening up highways where five per cent. reserved.

(3) In cases of deviations from road allowances and of roads laid out where there are no road allowances as provided in subsection 2 the corporation shall cause a plan thereof, so far as the same affects ungranted lands of the Crown, to be made by an Ontario land surveyor and shall file the same in the Department of Lands, Forests and Mines. 61 V. c. 26, s. 3. Filing plan of roads in Department of Lands, Forests and Mines.

PART XXII.

PENALTIES AND ENFORCEMENT OF BY-LAWS.

497.—(1) By-laws may be passed by the councils of all municipalities and by Boards of Commissioners of Police for imposing penalties not exceeding \$50, exclusive of costs, upon every person who contravenes any by-law of the council or of the board passed under the authority of this Act. Power to impose penalties.

(2) Every such penalty shall be recoverable under *The Ontario Summary Convictions Act*, all the provisions of which shall apply, except that the imprisonment may be for any term not exceeding six months for the breach of a by law. Recovery of Rev. Stat. c. 90.

(a) of the council or the Board of Commissioners of Police of a city,

(b) of the council or board of any other municipality for the suppression of houses of ill-fame,

and in all other cases for any term not exceeding twenty-one days. 3-4 Geo. V. c. 43, s. 497.

498.—(1) Except where otherwise expressly provided, the penalties imposed by or under the authority of this Act or under the authority of a by-law of a municipal council or of a Board of Commissioners of Police passed under the authority of this Act, shall be recoverable and may be enforced under *The Ontario Summary Convictions Act*. Recovery of penalties. Rev. Stat. c. 90.

Prosecutions.

(2) Prosecutions for offences against sections 138, 142, 187 or 189 shall be heard and determined by a police magistrate or two justices of the peace, and in other respects the provisions of *The Ontario Summary Convictions Act* shall apply.

Application of penalties.

(3) Where the prosecution is brought by a peace officer or employee of the corporation or of the local board of health, the whole of the penalty shall belong to the corporation, and in other cases shall belong one-half to the corporation and the other one-half to the prosecutor. 3-4 Geo. V. c. 43, s. 498.

Convictions not invalidated for want of proof of by-law.

499.—(1) A conviction for a contravention of any such by-law shall not be quashed for want of proof of the by-law before the convicting Justice, but the Court or a Judge hearing the motion to quash may dispense with such proof or may permit the by-law to be proved by affidavit, or in such other manner as may be deemed proper.

Requirement as to proof.

(2) Nothing in this section shall relieve a prosecutor from the duty of proving the by-law or entitle the Justice to dispense with such proof. 3-4 Geo. V. c. 43, s. 499.

Enforcing performances of things required to be done under by-laws.

500. Where a council has authority to direct or require by by-law or otherwise that any matter or thing be done, the council may by the same or by another by-law direct that in default of its being done by the person directed or required to do it, such matter or thing shall be done at his expense, and the corporation may recover the expense incurred in doing it by action, or the same may be recovered in like manner as municipal taxes. 3-4 Geo. V. c. 43, s. 500.

Power to restrain by action.

501. Where a building is erected or used or land is used in contravention of a by-law passed under the authority of this Act, in addition to any other remedy provided by this Act, and to any penalty imposed by the by-law, such contravention may be restrained by action at the instance of the corporation. 3-4 Geo. V. c. 43, s. 501.

PART XXIII.

POLICE VILLAGES.

Formation of.

Formation of police village.

502.—(1) Under and subject to the provisions and conditions hereinafter mentioned, a locality may be erected into a police village by the council of the county in which it is situate, or if it comprises parts of two or more counties by the council of the county in which the larger or largest part of the locality is situate.

(2) Where a petition signed by a majority of the freeholders of the locality whose names are entered on the last revised assessment roll and by a sufficient number of the resident tenants of the locality whose names are entered on such roll to make up with such freeholders a majority of the whole number of freeholders and tenants whose names are so entered, praying for the erection of the locality into a police village, is presented to the council, the council, if the locality has a population of not less than 150, and an area of not more than 500 acres, may pass a by-law erecting the locality into a police village to take effect from a day to be named in the by-law declaring the name which the police village shall bear and its boundaries, fixing a time and place and naming the returning officer for holding the first election of trustees and fixing a time and place for the first meeting of trustees. 3-4 Geo. V. c. 43, s. 502.

Petition of freeholders and tenants required.

By-law erecting village and fixing date of first election, etc.

503.—(1) When the population of a police village exceeds 500, the council of the county by which it was established may, on petition of two-thirds of the freeholders and tenants of the village, whose names are entered upon the last revised assessment roll, and of the majority of the resident freeholders and tenants of the territory proposed to be added, whose names are entered on the last revised assessment roll of the municipality, may by by-law increase the area of the village by adding to it any adjoining land, but not exceeding 20 acres for each additional 100 of its population over 500.

Annexation of territory to police village.

(2) Land in another county shall not be included in the increased area without the consent of the council of that county. 3-4 Geo. V. c. 43, s. 503.

504. Subsections 2, 3, 5, 6 and 9 of section 13 shall apply to the proceedings under the next two preceding sections, and the population of the locality shall be determined in case of dispute in such manner and by such means as the council shall determine. 3-4 Geo. V. c. 43, s. 504.

Application of proceedings as to incorporation of village.

Trustees—Election of, etc.

505.—(1) There shall be three trustees for every police village.

Trustees—number of.

(2) The trustees may contract and may sue and be sued, and may pass by-laws by and in the name of the trustees of the police village of (*naming it*) but they shall not be personally liable upon their contracts. 3-4 Geo. V. c. 43, s. 505.

General powers.

506.—(1) Except where other provision is made in this Part and except as provided by subsections 2 to 6, the provisions of Parts 2, 3 and 4, which are applicable to coun-

Application of provisions as to election, etc., of township councillors.

cillors of townships, shall apply *mutatis mutandis* to trustees of police villages.

Appoint-
ment of re-
turning
officer—
nomination
and polling.
Duty of
clerk of
township as
to preparing
voters' list.

(2) The trustees shall appoint the returning officer and the place within the village for holding the nomination and for the polling for every election except the first.

(3) The clerk of every township, a part of which is comprised in the village, not later than the day before that on which the polling is to take place, shall deliver to the returning officer of the village a copy of so much of the voters' list as relates to the village, attested by his declaration in writing as a true copy thereof.

Return of
ballot box.

(4) The return of the ballot box provided for by section 122 shall be made,

- (a) where the village lies wholly within the township to the clerk of that township;
- (b) where the village comprises parts of two or more townships in the same county to the clerk of that county;
- (c) where the village comprises parts of two or more townships in different counties to the clerk of the county in which the larger or largest part of the village is situate.

Duties of
clerk on
receiving
ballot box.

(5) The clerk to whom the ballot box is returned shall perform the duties which under sections 126 and 127 are to be performed by the clerk of a municipality.

Qualifica-
tion of
trustee.

(6) No person shall be qualified to be elected a trustee unless he has the prescribed qualification in respect of land situate in the village and resides in or within two miles of the village.

Qualifica-
tion of
elector.

(7) No person shall be qualified to vote at an election of trustees unless he has the prescribed qualification in the village.

First meet-
ing of
trustees.

(8) The first meeting of the trustees after the annual election shall be held at noon on the 3rd Monday in January, or on some day thereafter at noon. 3-4 Geo. V. c. 43, s. 506.

Vacancies—
how filled.

507. If a vacancy occurs in the office of trustee the remaining trustees or trustee shall, by writing, appoint a trustee to fill the vacancy. 3-4 Geo. V. c. 43, s. 507.

Appoint-
ment of
inspecting
trustee.
Require-
ment as to
filing ap-
pointment of
inspecting
trustee,
etc.

508.—(1) The trustees shall, by writing, appoint one of their number to be inspecting trustee.

(2) Forthwith after the making of an appointment under subsection 1 or under section 507, the writing by which the appointment is made shall be filed with the clerk to whom the ballot box is to be returned as provided by subsection 4 of section 506. 3-4 Geo. V. c. 43, s. 508.

509.—(1) The trustees may at any time before the first day of June in any year by a requisition in writing require the council of the township in which the village is situate to cause to be levied, along with the other rates upon the rateable property in the village, such sum as the trustees deem necessary to defray the expenditure of the trustees for the current year.

Requisition on township council to raise sums to meet expenditure.

(2) Where the village comprises parts of two or more townships the requisition shall be made on the council of each township for its proportion of the whole amount to be levied as ascertained in the manner provided by section 510.

Case of village situate in more than one township.

(3) The amount which the trustees may require to be so levied shall not in any year exceed a sum which a rate of one cent in the dollar on the rateable property in the village will provide, but this shall not apply to a rate imposed or to be levied under sections 516, 517, or 519. 3-4 Geo. V. c. 43, s. 509.

Limit of rates.

510.—(1) Where a village comprises parts of two or more townships the proportion of the amount required to be levied in each township shall be determined by the assessors of the townships.

Apportionment of rate among townships by assessors.

(2) Where a police village is hereafter erected, the assessors shall meet forthwith after the election for the purpose of determining and shall determine the proportion to be levied in each township.

Time for meeting of assessors.

(3) Thereafter and in the case of all other police villages the meeting shall be held in every second year.

(4) Except in the case of a newly erected police village the two years shall be reckoned from the respective times when the last determination was made by the assessors.

(5) If the assessors differ, notice of the fact shall be forthwith given to the inspecting trustee, who shall act with the assessors in determining the proportions, and the decision of a majority shall be final and conclusive.

Determination when assessors differ.

(6) The determination of the assessor or of the assessors and the inspecting trustee shall be forthwith communicated to the clerk of each of the townships.

Notice of determination to be given to clerk of township.

(7) The meeting of the assessors shall be called by the assessor of the township in which is situate the larger or largest part of the rateable property of the village.

Who to call meeting of assessors.

(8) The proportions as determined under this section shall govern until the next determination is to be made as provided by subsection 3. 3-4 Geo. V. c. 43, s. 510.

How long determination to govern.

511. The ratepayers of the village shall be entitled to such deduction from the township rate payable by them as may be agreed on between the trustees and the council of

Reduction of township rates—determination of.

the township, or if the village comprises parts of two or more townships, by the councils of the respective townships, or if they are unable to agree as shall be determined by a judge of the county court of the county in which the village, or if it comprises more counties than one, the larger or largest part of the village is situate. 3-4 Geo. V. c. 43, s. 511.

Commuta-
tion of
statute
labour.

512.—(1) The trustees shall be entitled to have the statute labour to be performed by the ratepayers of the village performed in the village.

When coun-
cil required
to commute.

(2) If the trustees request the council of a township to commute the statute labour payable by the ratepayers in that part of the village which is situate in the township, the council shall provide for such commutation at such rate not exceeding \$1 per day, as may be requested by the trustees.

Collection
and applica-
tion of com-
mutation
money.

(3) The amount of the commutation money shall be collected by the collector of the township and be placed to the credit of the trustees in the books of the treasurer of the township. 3-4 Geo. V. c. 43, s. 512.

Powers of
trustees.

513. The trustees may,

- (a) construct sidewalks and culverts and make, improve, drain and repair the highways in the village;
- (b) make contracts for the supply of light, heat or power by any person to the trustees for the purposes of the village or to the residents thereof;

and do all things necessary for any of such purposes. 3-4 Geo. V. c. 43, s. 513.

Payment by
township
treasurer of
orders of
trustees.

514.—(1) The treasurer of a township shall, if he has money of the corporation in hand and not otherwise appropriated, from time to time pay any order of the inspecting trustee or of any two of the trustees to the extent of

- (a) the sum required by section 509 to be levied by the council of the township and any sum which the council is required by the provisions of this Part to place to the credit of the trustees, although the same have not been then collected;
- (b) any money received for license fees under any by-law of the trustees and for penalties for breaches of any such by-law or of sections 524, 525 and 526; and
- (c) any money placed to the credit of the trustees under the authority of section 515.

When orders
not to be
given.

(2) An order shall not be given under this section except for work actually performed or in payment in pursuance of an executed contract. 3-4 Geo. V. c. 43, s. 514.

515. The council of a township in which the whole or a part of a police village is situate may by by-law provide that the whole or any part of the money received by the corporation of the township for licenses issued under *The Liquor License Act* for premises situate in the village or for penalties imposed for offences against that Act committed in the village shall be placed to the credit of the trustees in the books of the treasurer of the township. 3-4 Geo. V. c. 43, s. 515.

Power of township to pay to trustees part of moneys received for liquor licenses, etc., in villages. Rev. Stat. c. 215.

516.—(1) Upon the application of the trustees the council of a township in which a police village is situate shall submit for the assent of the electors of the village, and if it receives such assent shall pass a by-law for borrowing money for

Submission of money by-laws for certain purposes.

- (a) the construction of sidewalks of cement, concrete, brick or other permanent material;
- (b) the purchase of fire engines and other appliances for fire protection and the supply of water therefor;
- (c) lighting the highways in the village; and
- (d) supplying light, heat or power to the trustees for the purposes of the village or to the residents thereof;

and for the issue of debentures of the corporation of the township for the money borrowed, payable on the instalment plan, at such time within ten years and in such manner as the trustees may request.

(2) The special rate for the payment of the principal and interest shall be imposed upon the rateable property in the village.

Special rate.

(3) The money borrowed shall be retained in the hands of the treasurer of the township, and he shall pay out of it the orders of the inspecting trustee or of any two trustees in payment for work actually performed or of an executed contract with respect to the work or service for undertaking which the by-law was passed.

Expenditure of money borrowed.

(4) When the by-law is passed, the trustees may undertake the work or service.

Undertaking of work.

(5) The trustees shall have the control, care and management of the fire engine and appliances, and of the plant and appliances for the supply of light, heat or power.

Control of fire engines, etc.

(6) The trustees shall in each year before the striking of the rate by the council of the township furnish to the clerk a statement showing in detail the amount required to be levied upon the rateable property of the village for the current year for any such work or service which has been undertaken and for the care and maintenance of any fire engine and appliances purchased and for providing water therefor

Statement to be furnished to clerk of township, of amount required to be levied for certain purposes.

and for the maintenance and operation of the plant and appliances for the supply of light, heat or power. 3-4 Geo. V. c. 43, s. 516.

Purchase of fire engines and appliances with consent of township council.

517.—(1) The trustees may, with the consent of the council of the township in which the village is situate expressed by by-law or resolution, purchase fire engines and appliances for fire protection at a cost not exceeding \$3,000, and pay therefor in instalments within ten years.

Township to pass debenture by-law.

(2) Upon the purchase being made the council of the township shall pass a by-law for raising the amount of the purchase money by the issue of debentures of the corporation of the township on the instalment plan, payable within ten years.

Special rate.

(3) The special rate imposed for the payment of the debentures shall be imposed upon the rateable property in the village.

Assent of electors not required.

(4) The assent of the electors to the by-law shall not be necessary.

(5) Subsections 5 and 6 of section 516 shall apply to a fire engine and appliances purchased under the authority of this section. 3-4 Geo. V. c. 43, s. 517.

Agreement for use by township of fire engine.

518. The trustees may contract with the corporation of a township in which the whole or any part of the village is situate for the use by the corporation of a fire engine and appliances purchased under the authority of this Part upon such terms as to payment for the use of them and otherwise as may be agreed upon. 3-4 Geo. V. c. 43, s. 518.

Establishment of Parks, Gardens, etc.

Acquiring land for parks, exhibitions, etc.

519.—(1) Upon the petition of three-fourths of the electors qualified to vote upon money by-laws the council of a township in which a police village is situate may pass a by-law for acquiring land within or without the limits of the village for a highway or for a public park, garden or place for exhibitions, and for the erection thereon of such buildings and fences as the council may deem necessary for the purposes of such highway, park, garden or place for exhibitions and may dispose of such land when no longer required for such purposes.

Control and management of parks, etc.

(2) The trustees shall have the care, control and management of such highway, park, garden or place.

(3) The council of the township may provide that,

Powers of township council as to levying costs of parks, etc.

(a) the money required for the purpose mentioned in subsection 1 shall be levied upon the rateable property in the village, or,

- (b) such money be raised by the issue of debentures of the corporation of the township on the instalment plan payable within 10 years.

(4) The by-law shall impose the special rate for the payment of the debentures upon the rateable property in the village. Special rates.

(5) The trustees shall annually before the striking of the rate for the year by the council of the township furnish to the council a statement showing in detail the amount required to be levied for the current year for managing and maintaining the highway, park, garden or place of exhibitions, and the same shall be levied upon the land in the village. Statement as to amount required for maintenance of parks, etc.

(6) The assent of the electors to a by-law passed under this section shall not be necessary. 3-4 Geo. V. c. 43, s. 519. Assent of electors not required.

520.—(1) Where the village comprises parts of two or more townships a by-law for the purposes mentioned in sections 516, 517 and 519 may be passed by the trustees, with the assent of the electors of the village qualified to vote on money by-laws; and for the purposes of such by-laws the trustees shall have all the powers of the council of a village, except the power to issue the debentures for the payment of the principal and interest. Trustees to pass money by-laws where village situate in two or more townships.

(2) The by-law shall fix the proportion of the debt, for payment of which the special rate is to be imposed, which is to be borne by the part of the village situate in each township, and such proportion shall be the same as that in which the annual sum to be levied as provided by section 509 is to be levied according to the then last determination of the assessors or of the assessors and the inspecting trustee under section 510. Fixing proportion of debt to be borne by parts of village.

(3) If the by-law receives the assent of the electors the trustees, after passing it, shall serve a certified copy of it upon the clerk of each of the townships. Certified copy for each township.

(4) The council of each township shall forthwith there-after pass a by-law for raising the amount which is to be borne by that part of the village situate in the township by the issue of debentures of the corporation of the township, payable as provided by the by-law of the trustees, and it shall not be necessary that such by-law shall receive the assent of the electors or impose any rate for the payment of the debentures. By-law of township for raising money.

(5) The special rates imposed by the by-law of the trustees shall be levied and collected by the councils of the townships within which the property upon which they are imposed is situate. 3-4 Geo. V. c. 43, s. 520. Special rates.

Appointment
of constable.

521.—(1) The trustees may appoint a constable for the village who shall have the same powers and perform the same duties within the village as a constable appointed by the council of a village.

Salary.

(2) The constable may be paid by salary or may keep for his own use the fees of his office as the trustees may determine.

When fees
of constable
to belong
to village.

(3) Where the constable is paid by salary the trustees may require that the fees of his office be paid to the treasurer of the township in which the village is situate or where the village comprises parts of two or more townships to the treasurer of any or either of them for the use of the village. 3-4 Geo. V. c. 43, s. 521.

Special Powers.

Special
powers of
trustees.

522.—(1) The trustees shall have the like power to pass by-laws as is conferred on the council of a village with respect to the matters under the following sub-headings:—

S. 398, para. 8, 9.

(a) Driving or riding on roads and bridges;

S. 398, par. 17.

(b) Free libraries;

S. 398, par. 37.

(c) Sidewalks—Vehicles on;

S. 399,
para. 52-55.

(d) Pounds;

S. 399,
para. 61, 62.

(e) Snow and Ice, removal of;

S. 400, par. 44.

(f) Sidewalks—Horses and cattle upon;

S. 400, par. 46.

(g) Spitting on sidewalks;

S. 400, par. 49.

(h) Traffic on highways, etc., driving of cattle, etc.;

S. 419, par. 2.

(i) Tobacconists;

S. 420, par. 1.

(j) Bagatelle and billiard tables; and

S. 420, par. 3.

(k) Exhibitions, places of amusement, etc.

Fixing
amount of
license fee.

(2) Where power is conferred to license, the license fee shall be fixed by the trustees, and subsections 1, 3, 4, and 5 of section 253 shall apply.

When by-
law of
township
not to
apply to
village.

(3) While a by-law passed under the authority of subsection 1 is in force, no by-law of the council of the township applicable to the same subject matter shall apply to or be in force in the village. 3-4 Geo. V. c. 43, s. 522.

Authentica-
tion of
by-laws.

523.—(1) Every by-law of the trustees shall be signed by at least two of them.

Certified
copies to
be sent to
clerk of
township.

(2) A certified copy of every such by-law shall within seven days after it is passed be transmitted to the clerk of

every township a part of which is comprised in the village.
3-4 Geo. V. c. 43, s. 523.

Prevention of Fire.

524.—(1) Every proprietor of a house more than one storey high shall place and keep a ladder on the roof of such house near to or against the principal chimney thereof, and another ladder reaching from the ground to the roof of such house, under a penalty of \$1 for every omission; and a further penalty of \$2 for every week for which such omission continues.

For provid-
ing ladders,
etc.

Penalty.

(2) Every householder shall provide himself with two buckets fit for carrying water in case of accident by fire, under a penalty of \$1 for each bucket not so provided.

Fire
buckets.

Penalty.

(3) No person shall build any oven or furnace unless it adjoins and is properly connected with a chimney of stone or brick at least three feet higher than the house or building in which the oven or furnace is built, under a penalty not exceeding \$2 for non-compliance.

As to
furnaces,
etc.

Penalty.

(4) No person shall pass a stove-pipe through a wooden or lathed partition or floor, unless there is a space of four inches between the pipe and the wood-work nearest thereto; and the pipe of every stove shall be inserted into a chimney; and there shall be at least ten inches in the clear between any stove and any lathed partition or wood-work, under a penalty of \$2.

Stove pipes,
etc.

Penalty.

(5) No person shall enter a mill, barn, outhouse or stable with a lighted candle or lamp, unless it is well enclosed in a lantern, nor with a lighted pipe or cigar, nor with fire not properly secured, under a penalty of \$1.

Lights in
stables, etc.

Penalty.

(6) No person shall light or have a fire in a wooden house or outhouse, unless such fire is in a brick or stone chimney, or in a stove of iron or other metal, properly secured, under a penalty of \$1.

Chimneys.

Penalty.

(7) No person shall carry fire or cause fire to be carried into or through any street, lane, yard, garden or other place, unless such fire is confined in a copper, iron or tin vessel, under a penalty of \$1 for the first offence, and of \$2 for every subsequent offence.

Securing
fire carried
through
streets, etc.

Penalty.

(8) No person shall light a fire in a street, lane or public place under a penalty of \$1.

Lighting
fires on
streets.
Penalty.

(9) No person shall place hay, straw or fodder, or cause the same to be placed, in a dwelling house, under a penalty of \$1 for the first offence, and of \$5 for every week the hay, straw or fodder is suffered to remain there.

Hay, straw,
etc.

Penalty.

Ashes, etc.

(10) No person, except a manufacturer of pot or pearl ashes, shall keep or deposit ashes or cinders in any wooden vessel, box or thing not lined or doubled with sheet-iron, tin or copper, so as to prevent danger of fire from such ashes or cinders, under a penalty of \$1.

Penalty.

Lime.

(11) No person shall place or deposit any quick or un-slacked lime in contact with any wood of a house, outhouse or other building, under a penalty of \$1, and a further penalty of \$2 a day until the lime has been removed, or is secured, so as to prevent any danger from fire, to the satisfaction of the inspecting trustee.

Penalty.

Charcoal
furnaces.
Penalty.

(12) No person shall erect a furnace for making charcoal of wood, under a penalty of \$5. 3-4 Geo. V. c. 43, s. 524.

Gunpowder.

Gunpowder,
how to be
kept.

525.—(1) No person shall keep or have gunpowder for sale, except in boxes of copper, tin or lead, under a penalty of \$5 for the first offence, and \$10 for every subsequent offence.

Penalty.

Not to be
sold at night.

(2) No person shall sell gunpowder, or permit gunpowder to be sold in his house, storehouse or shop, outhouse or other building, at night, under a penalty of \$10 for the first offence, and of \$20 for every subsequent offence. 3-4 Geo. V. c. 43, s. 525.

Nuisances.

Certain
nuisances
prohibited.

526. No person shall throw, or cause to be thrown, any filth or rubbish into a street, lane or public place, under a penalty of \$1, and a further penalty of \$2 for every week for which he neglects or refuses to remove the same after being notified to do so by the inspecting trustee or by some other person authorized by him. 3-4 Geo. V. c. 43, s. 526.

Trustees
required to
prosecute
offenders.

527.—(1) It shall be the duty of the trustees to see that the provisions of the next preceding three sections are not contravened, and that offenders are prosecuted for breaches of them.

Penalty for
neglect to
prosecute.

(2) Any trustee who wilfully neglects or omits to prosecute an offender against any of the provisions of sections 524, 525 or 526, when requested so to do by a resident householder of the village who offers to adduce proof of the offence, and a trustee who wilfully neglects or omits to fulfil any other duty imposed on him by this Part shall incur a penalty of \$5. 3-4 Geo. V. c. 43, s. 527.

Penalties—
how recover-
able.

528. The penalties imposed by or under the authority of this Part shall be recoverable under *The Ontario Summary Convictions Act*, all of the provisions of which shall apply except that proceedings for the recovery of penalties for

Rev. Stat.
c. 90.

contraventions of sections 524 to 527 shall be commenced within ten days after the commission of the offence, or if it is a continuing offence within ten days after it has ceased and not afterwards. 3-4 Geo. V. c. 43, s. 528.

Incorporation of Trustees.

529.—(1) Where a police village has a population of not less than 500, the trustees may be created a body corporate and when incorporated the corporation shall be styled “The Board of Trustees of the Police Village of _____” Incorporation of Board of Trustees.
(naming it).

(2) The provisions of this Part as to the erection of a Police Village shall apply *mutatis mutandis* to an application for the incorporation of the trustees of a police village with the exception that the petition for incorporation shall be signed by not less than 50 resident freeholders of the village whose names are entered on the last revised assessment rolls of the municipality or municipalities of parts of which the village is composed. 3-4 Geo. V. c. 43, s. 529. Procedure as to incorporation of board.

530.—(1) At its first meeting in each year the Board shall appoint one of its members to be the Chairman, and shall also appoint a Secretary. Appointment of chairman and secretary.

(2) The chairman shall, if present, preside at all meetings of the Board and in his absence the Board shall appoint one of its members to act as Chairman during such absence. 3-4 Geo. V. c. 43, s. 530. Presiding officer.

531.—(1) The by-laws of the Board shall be signed by the Chairman or acting Chairman and shall be sealed with its seal. Authentication of by-laws.

(2) The provisions of this Act as to the proof of by-laws of a council shall apply to the by-laws of the Board. 3-4 Geo. V. c. 43, s. 531.

532. The expenses of repairing and maintaining all works, improvements and services undertaken by the Board under the authority of this Act shall be borne by the Board, and such expenses shall be levied and collected by the councils of the townships on the requisition in writing of the Board in like manner as the money to be levied as provided by section 509. 3-4 Geo. V. c. 43, s. 532. Repair and maintenance of improvements and works.

533.—(1) If the Board makes default in maintaining and keeping in repair any such work, and the corporation of a township becomes liable under section 460 for damages suffered by or occasioned to any person in consequence of such default, the corporation shall be entitled to the remedy over against the Board provided for by section 464. Remedy over of township against Board for damages occasioned by non-repair.

Special rate
for collec-
tion of
amount of
damages.

(2) The amount required to satisfy the liability of the Board shall be levied and collected by a special rate on the rateable property in the village, and it shall be the duty of the Board to make a requisition in writing to the council of the township to levy and collect the same.

Apportion-
ment of
special rate.

(3) Where the village comprises parts of two or more townships the special rate shall be apportioned between the townships in the manner provided by section 510, and shall be levied and collected by the councils thereof in accordance with the requisition of the Board. 3-4 Geo. V. c. 43, s. 533.

Power to
construct
water, light,
heat, power,
and gas
works.

534.—(1) The Board shall have the like powers as the council of a village for constructing, purchasing, improving, extending, maintaining, managing and conducting water, light, heat, power and gas works.

Copy of by-
law to be
filed with
township
clerk.

(2) A copy of every by-law passed under the authority of subsection 1 shall be filed with the clerk of every township in which any part of the village is situate.

Special rates.

(3) Where the village is situate in one township, the council of that township shall levy and collect the amount required to be raised under any such by-law by a special annual rate upon the rateable property in the village, and where the village comprises parts of two or more townships, the council of each township shall levy and collect the proportion of the amount to be raised by it by a special annual rate on the rateable property in that part of the village situate in such township.

Proportion
of each
township.

(4) The proportion to be raised by each township shall be determined under the provisions of section 510. 3-4 Geo. V. c. 43, s. 534.

Board to
have all
power of
trustees of
a police
village.

535.—(1) The powers expressly conferred on boards of trustees of police villages shall be in addition to the powers conferred by this Part on trustees of a police village, and except where other provision is made by this Part with respect to such boards all the provisions of this Part relating to trustees of police villages shall apply to such boards.

Power to
impose
penalties,
etc.

(2) Section 497, subsection 2 of section 498, and sections 499 and 500 shall apply *mutatis mutandis* to by-laws passed under the authority of this Part by a board of trustees of a police village. 3-4 Geo. V. c. 43, s. 535.

PART XXIV.

MISCELLANEOUS.

Forms of
by-laws,
notices, etc.

536. Where the Forms therefor are not prescribed by this Act the Municipal Board may approve of forms of by-laws, notices and other proceedings to be passed, given, or taken

under or in carrying out the provisions of this Act, and every by-law, notice or other proceeding which is in substantial conformity with the Form so approved shall not be open to objection on the ground that it is not in accordance with the provisions of this Act applicable thereto, but the use of such Forms shall not be obligatory. 3-4 Geo. V. c. 43 s. 536.

537. The Lieutenant-Governor in Council may by proclamation declare that section 566 of *The Consolidated Municipal Act, 1903*, shall cease to have effect on and from a day to be named in such proclamation and on and from that day the section shall be deemed to be repealed.

Repeal of
3 Edw. VII.
c. 19, s. 566.

FORM 1.

DECLARATION OF INCORPORATION.

TOWNSHIPS IN UNORGANIZED TERRITORY.

I, _____ Judge of the District Court of the Provisional Judicial District of _____ hereby certify:

1. That the inhabitants of the township of _____ in the said district (or of that part of the said district described as follows [*describing it*]), or of the townships of _____ and _____ in the said district (*as the case may be*), are incorporated as a township municipality (or as a union of townships municipality, *as the case may be*), by the name of the Corporation of the township of _____ (or of the united townships of _____, *as the case may be*).

2. That _____ was elected reeve and _____ were elected councillors for the municipality.

3. The first meeting of the council shall be held on the _____ day of _____ at _____

Dated at _____ this _____ day of _____, 19 _____

3-4 Geo. V. c. 43, Form 1.

FORM 2.

DECLARATION OF QUALIFICATION BY CANDIDATE.

I, A. B., declare that

1. I am a British subject by birth (or naturalization), and not a citizen or subject of any foreign country.

2. I have to my own use and benefit in my own right (or my wife has, as the case may be) as owner (or tenant, as the case may be), such estate as qualifies me for the office of (naming the office) for which I am a candidate (a), (d).

3. Such estate is (state the nature of the estate as a legal estate of freehold or otherwise, as the case may be) in (designate the land by its local description or otherwise).

4. The land is assessed in my own name (or in the name of my wife, as the case may be) on the last revised assessment roll of this municipality at the sum of \$ (b) which exceeds by at least \$ the amount of all liens, charges and encumbrances thereon (c).

5. I am not liable for any arrears of taxes to the corporation of this municipality.

6. There are no arrears of taxes against the land in respect of which I qualify.

Declared before me at
the day of
19

A. B.

(a) Where the candidate qualifies under subsection 2 of section 52, substitute for paragraphs 2 and 4 the following:

2. I had to my own use and benefit (or my wife had, as the case may be) as owner (or tenant, as the case may be), at the time of the return of the last assessment roll of this municipality such an estate in land rated on that assessment roll in my own name or in the name of my wife as the case may be, as would have qualified me for the office of (naming it).

4. I have (or my wife has, as the case may be) an estate in land (describing it) assessed on the last revised assessment roll of this municipality for \$, which exceeds by at least \$ the amount of all liens, charges and encumbrances thereon, and is sufficient to qualify me for such office if I (or my wife, as the case may be) had been assessed for it.

(b) Where the candidate qualifies on a leasehold estate omit the remainder of this paragraph.

(c) Where the candidate qualifies under clause (e) of subsection 1 of section 52, substitute for paragraph 4 the following:

4. The land is assessed in my own name (or in the name of my wife, as the case may be) on the last revised assessment roll of this municipality for at least \$2,000, and I am in actual occupation of such land.

(d) In the case of a person elected as a member of a township council substitute for the words "for which I am a candidate" the words "to which I was elected," and change paragraphs 2, 6 and 7 so as to refer to the time of the election.

FORM 3.

BALLOT PAPERS FOR CITIES AND TOWNS.

FORM FOR MAYOR.

<div></div>	Election for the Mem- bers of the Municipal Council of the City of Ward No. , day Polling Subdivision No. , day of January, 19	FOR MAYOR.	ALLAN. Charles Allan, of King Street, in the City of Toronto, Merchant.
			BROWN. William Brown, of the City of Toronto, Banker.

FORM FOR REEVE AND DEPUTY REEVE IN TOWNS.

<div></div>	Election for the Mem- bers of the Muni- cipal Council of the Town of Ward No. , day Polling Subdivision No. of January, 19	FOR DEPUTY- REEVE	CLITHEROE. Albert Clitheroe, of the Town of Galt, Baker.
			HUGHES. David Hughes, of the Town of Galt, Tinsmith.
		FOR REEVE.	FARQUHARSON. Robin Farquharson, of the Town of Galt, Builder.
			MacPHERSON. Roderick MacPherson, of the Town of Galt, Printer.

FORM FOR ALDERMEN OR COUNCILLORS.

<div></div>	Election for the Members of the Municipal Council of the City of Ward No. , Polling Sub- division No. , day of January, 19	FOR ALDERMAN (or) COUNCILLOR.	ARGO. James Argo, of the City of To- ronto, Gentleman.
			BAKER. Samuel Baker, of the City of Toronto, Baker.
			DUNCAN. Robert Duncan, of the City of Toronto, Printer.

NOTE.—[In the case of cities and towns where the Aldermen or Councillors are elected by general vote the form above given is to be adapted to suit the case.]

FORM 5.

BALLOT PAPER FOR TOWNSHIPS.

<div></div>	<div>in the County of</div> <div>Election of Members of the Municipal Council of the Township of</div>	<div>FOR REEVE.</div>	<div>ALLSOPP.</div> <div>Albert Allsopp, of the Township of York, Brewer.</div>
			<div>BURTON.</div> <div>Henry Burton, of the Township of York, Farmer.</div>
		<div>FOR FIRST DEPUTY-REEVE.</div>	<div>BANKS.</div> <div>John Banks, of the Township of York, Blacksmith.</div>
			<div>CALDWELL.</div> <div>Henry Caldwell, of the Township of York, Market Gardener.</div>
		<div>FOR SECOND DEPUTY-REEVE.</div>	<div>CONNOR.</div> <div>Patrick Connor, of the Township of York, Cattle Dealer.</div>
			<div>DAVIDSON.</div> <div>Thomas Davidson, of the Township of York, Milkman.</div>
<div>FOR THIRD DEPUTY-REEVE.</div>	<div>EDWARDS.</div> <div>Daniel Edwards, of the Township of York, Miller.</div>		
	<div>FERGUSON.</div> <div>George Ferguson, of the Township of York, Nurseryman.</div>		
<div>FOR COUNCILLORS.</div>	<div>BRITTON.</div> <div>James Britton, of the Township of York, Farmer.</div>		
	<div>LLOYD.</div> <div>David Lloyd, of the Township of York, Farmer.</div>		
	<div>MACDONALD.</div> <div>Phillip MacDonald, of the Township of York, Agent.</div>		
	<div>O'LEARY.</div> <div>Dennis O'Leary, of the Township of York, Farmer.</div>		

Note.—Where the election is to fill a vacancy, the ballot papers are to contain only so much of the form as is required; and the counterfoils shall bear, instead of the words appearing on the form the words "Election of, to fill a vacancy in the office of, Ward No....., Polling subdivision No..... day of, 19..."

Where controllers, or commissioners, or members of the Board of Education are to be elected the ballot papers are to be similar in form.

FORM 6.

DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING.

The voter will go into one of the compartments, and with the pencil provided in the compartment, place a cross, thus **X** on the right hand side, opposite the name or names of the candidate or candidates for whom he votes or at any other place within the division which contains the name or names of such candidate or candidates.

The voter will fold up the ballot paper so as to show the name or initials of the Deputy Returning Officer (or Returning Officer, as the case may be) signed on the back, and leaving the compartment will, without showing the front of the paper to any person, deliver such ballot paper so folded to the Deputy Returning Officer (or Returning Officer, as the case may be) and forthwith quit the polling place.

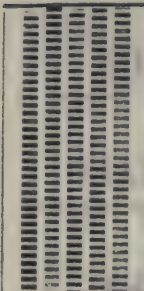
If the voter inadvertently spoils a ballot paper, he may return it to the Deputy Returning Officer (or Returning Officer, as the case may be) who will if satisfied of such inadvertence, give him another ballot paper.

If the voter votes for more candidates for any office than he is entitled to vote for, his ballot paper will be void as far as relates to that office, and will not be counted for any of the candidates for that office.

If the voter places any mark on his ballot paper by which he may afterwards be identified, or if the ballot paper has been torn, defaced, or otherwise dealt with by the voter so that he can thereby be identified, it will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the Officer, he will be subject to imprisonment for any term not exceeding 6 months, with or without hard labor.

In the following forms of ballot paper, given for illustration, the candidates are, for Mayor, Jacob Thompson and Robert Walker; for Reeve, George Jones and John Smith; for Deputy Reeve, Thomas Brown and William Davis; for Councillors, John Bull, Morgan Jones, Allister McAllister and Patrick O'Connell; and the elector has marked the first ballot paper in favour of Jacob Thompson for Mayor, the second ballot paper in favour of George Jones for Reeve, the third ballot paper in favour of William Davis for Deputy Reeve, and the fourth ballot paper in favour of John Bull and Patrick O'Connell for Councillors.

	Election for the Members of the Municipal Council, of No. of day of Jan- uary, 19	FOR MAYOR.	THOMPSON. Jacob Thompson, of the Town of Barrie, Merchant. X
			WALKER. Robert Walker, of the Town of Barrie, Physician.

FORM 8.

CERTIFICATE AS TO ASSESSMENT ROLL AND VOTERS' LIST.

Election to the Municipal Council of the

of

19

I, A. B., Clerk of the Municipality of _____ in the
 county of _____ hereby certify that the assess-
 ment roll for this municipality upon which the voters' list to be
 used at this election is based was finally revised on the
 day of _____ 19____, and that the last day for making
 complaint to the Judge with respect to the list was
 day of _____ 19____

Dated this

day of

19

A. B.,

[Seal.]

Clerk.

3-4 Geo. V. c. 43, Form 8.

FORM 9.

OATH TO BE ADMINISTERED TO A VOTER.

You swear (a)

1. That you are the person named or intended to be named by
 the name of _____ in the list (or
 supplementary list) of voters (b) now shown to you.

2. That you are a natural born (or naturalized) subject of His
 Majesty, and of the full age of twenty-one years.

3. That you are not a citizen or subject of any foreign country.

4. (In the case of an unmarried woman or widow) That you are
 unmarried (or a widow, as the case may be).

5. That (c)

6. (In the case of a municipality not divided into wards) That
 you have not voted before at this election at this or any other poll-
 ing place.

7. (Where the municipality is divided into wards and the election
 is not by general vote) That you have not voted before at this elec-
 tion at this or any other polling place in this ward, (or if the elec-
 tion is by general vote) that you reside in this polling subdivision
 (or are not entitled to vote in the polling subdivision in which you
 reside or are not resident within the municipality, as the case may
 be), and that you have not voted before or elsewhere at this election,
 and will not vote elsewhere at this election (d).

8. That you have not directly or indirectly received any reward
 or gift, nor do you expect to receive any, for the vote which you
 tender.

9. That you have not received anything, nor has anything been
 promised you, directly or indirectly, either to induce you to vote
 at this election, or for loss of time, travelling expenses, hire of
 team, or any other service connected with this election.

10. That you have not directly or indirectly paid or promised
 anything to any person to induce him to vote or to refrain from
 voting at this election.

(a) If the voter is a person who may by law affirm in civil cases,
 substitute for "swear," "solemnly affirm."

(b) In the case of a new municipality in which there has not
 been any assessment roll, instead of referring to the list of voters,

the oath is to state the land in respect of which the person claims to vote.

(c) *In the case of a person claiming to vote in respect of a freehold estate, insert here, "At the date of this election you are in your own right, or your wife is, a freeholder within this polling subdivision (or, where the ward is not divided into polling subdivisions, "within this ward").*

In the case of a person claiming to vote in respect of a leasehold estate, insert here "That you were (or your wife was) actually and truly in good faith possessed to your (or her) own use and benefit as tenant of the land in respect of which your name is entered on such list. That you are (or your wife is) a tenant within this municipality, and that you have been a resident within it for one month next before this election;" (or, in the case of a new municipality for which there is no assessment roll, instead of the words "have been a resident within it for one month next before the election," insert "You are a resident of this municipality").

If the person claims to vote in respect of income, insert here
 That on the _____ day of _____ 19____
(the day certified by the clerk as the date of the final revision of the assessment roll upon which the voters' list is based, or, at the option of the voter, the day certified by the clerk as the last day for making complaint to the Judge with respect to such list) you were, and thenceforth have been continuously, and still are, a resident of this municipality, and that at that date and for the twelve months previously you were in receipt of an income from your trade, office, calling or profession of not less than four hundred dollars.

In the case of a person claiming to vote as a farmer's son, insert here That on the _____ day of _____ 19____
(the day certified by the clerk as the date of the final revision of the assessment roll upon which the voters' list is based, or, at the option of the voter, the day certified by the clerk as the last day for making complaint to the Judge with respect to such list) A. B. (naming him or her) _____ was actually, truly and in good faith possessed to his (or her) own use and benefit as owner (or as tenant under a lease the term of which was not less than five years), as you verily believe, of the land in respect of which your name is entered on the voters' list; That you are a son (or a stepson) of the said A. B., and that you resided on the said land for twelve months next before the said day, and were not absent during that period except temporarily, and for not more than six months in all, and that you are still a resident of this municipality.

Where the voter or his wife is a leaseholder, and the voting is on a by-law under section 51 of The Local Improvement Act, add

**That you have (or your wife has), by the lease under which you (or she) holds, contracted to pay all municipal taxes, including local improvement rates.*

(d) If the by-law is for creating a debt substitute for paragraph 7.

(In the case of the municipality divided into wards, if the by-law is one for creating a debt): 7. That you have not voted before on the by-law at this or any other polling place in this ward; (or in the case of any other by-law): 7. That you reside in this polling subdivision or are not entitled to vote in the polling subdivision in which you reside, or are not resident within the municipality (as the case may be), and that you have not voted before elsewhere, and will not vote elsewhere on the by-law.

(Where the voter or his wife is a leaseholder, and the voting is on a by-law for creating a debt, add the following paragraph:

11. That the lease under which you hold (or your wife holds) extends for the period for which the debt or liability to be created

by the by-law is to run, and you have (or your wife has) contracted by the lease to pay all municipal taxes in respect of the land other than special assessments for local improvements.

Where the voting is on a by-law substitute for the words "at this election" the words "on the by-law"; and where the voting is on a question, substitute for the words "at this election" the words "on the question."

3-4 Geo. V. c. 43, Form 9.

NOTE.—Where the voter is the nominee of a corporation the oath shall state the fact, and that the voter has not voted before on the by-law "at this or any other polling place," adding if the municipality is divided into wards "in this ward," and shall also contain paragraphs 1, 8, 9 and 10.

FORM 10.

DECLARATION OF INABILITY TO READ.

I, A. B., of _____, being numbered _____ on the voters' list, for polling subdivision No. _____, in the City (or as the case may be) of _____, being a legally qualified elector for the City (or, as the case may be) of _____, declare that I am unable to read (or that I am from physical incapacity unable to mark a ballot paper, or that I object on religious grounds to mark a ballot paper, as the case may be).

Dated this _____ day of _____, 19 _____.

(A.B., His X Mark.)

3-4 Geo. V. c. 43, Form 10.

NOTE.—If the person objects on religious grounds to mark a ballot paper, the declaration may be made orally and to the above effect.

FORM 11.

CERTIFICATE TO BE WRITTEN UPON OR ANNEXED TO THE DECLARATION OF INABILITY TO READ.

I, C.D., Deputy Returning Officer for polling subdivision No. _____ for the City (or as the case may be) of _____, hereby certify that the above (or within) declaration, having been first read to the above (or within) named A. B., was signed by him in my presence with his mark.

Dated this _____ day of _____, 19 _____.

C. D.

3-4 Geo. V. c. 43, Form 11.

FORM 12.

OATH OF POLL CLERK OR MESSENGER WHERE THE DEPUTY RETURNING OFFICER IS UNABLE TO DELIVER THE BALLOT BOX TO THE RETURNING OFFICER.

I, _____, do hereby swear that I am the person to whom _____ Deputy Returning Officer for Polling Subdivision No. _____, of the _____, has entrusted the ballot box for the said polling subdivision to be

delivered to the Clerk; that the ballot box which I delivered to the Clerk this day is the ballot box I so received; that I have not opened it and that it has not been opened by any other person since I received it from the Deputy Returning Officer.

Sworn before me at
this
day of 19 . }

3-4 Geo. V. c. 43, Form 12.

FORM 13.

OATH OF DEPUTY RETURNING OFFICER AFTER CLOSING OF THE POLL.

I, A. B., Deputy Returning Officer for Polling Subdivision No. , of the City (or, as the case may be) of in the County , swear that, to the best of my knowledge and belief, the poll book kept for the said polling place under my direction has been kept correctly, that the total number of votes polled according to the said poll book is , and that it contains a true and exact record of the votes given at the said polling place, as the said votes were taken thereat; that I have correctly counted the votes given for each candidate, in the manner by law provided, and performed all duties required of me by law, and that the statement, voters' list, poll book, packets containing ballot papers, and other documents required by law to be returned by me to the Clerk, have been faithfully and truly prepared and placed in the ballot box, and are contained in the ballot box, returned by me to the Clerk, which was locked and sealed by me, in accordance with the provisions of *The Municipal Act*, and remained so locked and sealed while in my possession.

Sworn before me at
in the County of
this day of , 19 . }

A. B.

3-4 Geo. V. c. 43, Form 13.

FORM 14.

OATH OF SECRECY.

I, A. B., swear that I will not at this election disclose to any person the name of any person who has voted, and that I will not in any way unlawfully attempt to ascertain the candidate or candidates for whom any elector shall vote or has voted, and will not in any way aid in the unlawful discovery of the same; and that I will keep secret all knowledge which may come to me of the person for whom any elector has voted.

Sworn before me this
day of 19 . }

A. B.

C. D.,

J. P., or as the case may be.

3-4 Geo. V. c. 43, Form 14.

NOTE.—When the voting is on a by-law or question the Form is to be adapted to that case.

FORM 15.

CERTIFICATE OF CLERK AS TO ELECTION OF REEVES AND DEPUTY REEVES.

I, A. B., of _____ Clerk of the Corporation
of the town (township or village, as the case may be) of _____
in the County of _____ do
hereby, under my hand and the seal of the said Corporation, cer-
tify that C. D., of _____ Esquire (or as the
case may be), was duly elected reeve, (or first deputy reeve, or
second deputy reeve, or third deputy reeve, as the case may be), of
the said town (township or village, as the case may be), and has
made and subscribed the declaration of office and qualification as
such reeve (or first deputy reeve, or second deputy reeve, or third
third deputy reeve, as the case may be). A. B.

3-4 Geo. V. c. 43, Form 15.

FORM 16.

DECLARATION OF OFFICE.

I, A. B., do solemnly promise and declare that I will truly, faith-
fully and impartially, to the best of my knowledge and ability,
execute the office of (*insert name of office; or in the case of a person*
who has been appointed to two or more offices which he may law-
fully hold at the same time), that I will truly, faithfully and im-
partially, to the best of my knowledge and ability, execute the offices
to which I have been elected (or appointed) in this municipality,
and that I have not received, and I will not receive, any payment
or reward, or promise thereof, for the exercise of any partiality
or malversation or other undue execution of the said office (or
offices), and that I have not by myself or partner, either directly
or indirectly, any interest in any contract with or on behalf of the
said Corporation (*where declaration is made by the clerk, treasurer,*
collector, engineer, clerk of works or street overseer, add the words
following) save and except that arising out of my office as clerk
(or my office as assessor or collector, or as the case may be).

3-4 Geo. V. c. 43, Form 16.

FORM 17.

DECLARATION OF ELECTION OFFICERS.

I, A. B., do solemnly promise and declare that I will truly, faith-
fully and impartially, to the best of my knowledge and ability,
execute the office of (*inserting the name of the office*) in this muni-
cipality, and that I have not received, and will not receive, any
payment or reward, or promise thereof, for the exercise of any
partiality or malversation or other undue execution of the said
office.

3-4 Geo. V. c. 43, Form 17.

FORM 18.

DECLARATION OF AUDITOR.

I, A. B., having been appointed auditor for the municipal cor-
poration of _____, promise and declare
that I will faithfully perform the duties of that office according to
the best of my judgment and ability; and I do solemnly declare
that I had not, directly or indirectly, any share or interest in any

contract or employment (except that of auditor, *if reappointed*) with, by or on behalf of such municipal corporation during the year preceding my appointment, and that I have not any such contract or employment except that of auditor, for the present year.

A. B.

3-4 Geo. V. c. 43, Form 18.

FORM 19.

I, the undersigned, A. B., declare that I am an elector in this municipality, and that I am desirous of promoting (or opposing, as the case may be) the passing of the by-law to (here insert object of the by-law), submitted by the Council of this municipality (or of voting in the affirmative (or in the negative, as the case may be) on the question submitted.

Declared before me this
day of 19 .

A. B.

3-4 Geo. V. c. 43, Form 19.

FORM 20.

BALLOT PAPER FOR VOTING ON A BY-LAW.

<div style="display: flex; justify-content: space-between;"> <div style="width: 20px; height: 100px; border: 1px solid black; background: repeating-linear-gradient(45deg, transparent, transparent 2px, black 2px, black 4px);"></div> <div style="width: 100px; text-align: center;"> <p>.....19 .</p> <p>Voting on By-law to (here insert object of the By-law), submitted to the Council of the</p> </div> </div>	<p>FOR</p> <p>The By-law.</p>
	<p>AGAINST</p> <p>The By-law.</p>

3-4 Geo. V. c. 43, Form 20.

FORM 21.

BALLOT PAPER FOR VOTING ON QUESTION.

<div style="display: flex; justify-content: space-between;"> <div style="width: 20px; height: 100px; border: 1px solid black; background: repeating-linear-gradient(45deg, transparent, transparent 2px, black 2px, black 4px);"></div> <div style="width: 100px; text-align: center;"> <p>.....19</p> <p>Voting on the following question (here state question.)</p> </div> </div>	<p>YES</p>
	<p>NO</p>

3-4 Geo. V. c. 43, Form 21.

FORM 22.

DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING.

The voter will go into one of the compartments, and with the pencil provided in the compartment place a cross (thus X) on the right hand side, in the upper space if he votes for the passing of the by-law, or in the affirmative on the question, and in the lower space if he votes against the passing of the by-law, or in the negative on the question.

The voter will then fold up the ballot paper so as to show the name or initials of the Deputy Returning Officer (or Returning Officer, *as the case may be*) signed on the back, and leaving the compartment will, without showing the front of the paper to any person, deliver such ballot so folded to the Deputy Returning Officer (or Returning Officer *as the case may be*) and forthwith quit the polling place.

If the voter inadvertently spoils a ballot paper, he may return it to the Deputy Returning Officer (or Returning Officer *as the case may be*), who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter places on the paper more than one mark, or places any mark on his ballot paper by which he may be afterwards identified, or if the ballot paper has been torn, defaced or otherwise dealt with by the voter so that he can thereby be identified, it will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the Deputy Returning Officer (or Returning Officer, *as the case may be*) he will be subject to imprisonment for any term not exceeding six months, with or without hard labour.

In the following form of Ballot Paper, given for illustration, the Elector has marked his ballot paper in favour of the passing of the By-law:

	<p>.....19</p> <p>Voting on By-law to (here insert object of the by-law) submitted to the Council of the</p>	<p>FOR X</p> <p>The By-law.</p> <hr/> <p>AGAINST</p> <p>The By-law.</p>
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3-4 Geo. V. c. 43, Form 22.

FORM 23.

NOTICE ON PROMULGATION OF BY-LAW.

The above is a true copy of a by-law passed by the municipal council of the _____ of _____ on the _____ day of _____, 19____.

And all persons are hereby required to take notice that anyone desirous of applying to have such by-law, or any part thereof, quashed, must make his application for that purpose to the High

Court of Justice, within three months next after the first publication of this notice in the newspaper called the _____, or he will be too late to be heard in that behalf.

3-4 Geo. V. c. 43, Form 23.

FORM 24.

NOTICE OF REGISTRATION OF BY-LAW.

Notice is hereby given that a by-law was passed by the _____ of _____ on the _____ day of _____ 19____, providing for the issue of debentures to the amount of \$_____, for the purpose of _____, and that such by-law was registered in the registry office of _____ the county of _____ on the _____ day of _____ 19____. Any motion to quash or set aside the same or any part thereof must be made within three months after the first publication of this notice, and cannot be made thereafter.

Dated the _____

day of _____

19____

Clerk.

3-4 Geo. V. c. 43, Form 24.

FORM 25.

CHIEF ENGINEER'S CERTIFICATE.

To the Trustees of the _____ Railway Company
Municipal Trust Account.

I, _____ Chief Engineer of the _____ Railway Company, do hereby certify that the company has fulfilled the terms and conditions necessary to be fulfilled under by-law number _____ of the municipal council of the _____ of _____, passed the _____ day of _____ 19____, that is to say (*set out terms and conditions fulfilled*), to entitle the company to receive from the trustees the sum of _____

Dated the _____

day of _____

19____

Chief Engineer.

3-4 Geo. V. c. 43, Form 25.

CHAPTER 193.

An Act respecting Local Improvements.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as *The Local Improvement Act*. Short title.
2 Geo. V. c. 44, s. 1.

INTERPRETATION.

2. In this Act:— Interpretation.

- (a) "Bridge" shall include a viaduct, a culvert, a sub-way and an embankment and shall also include a pavement on a bridge. "Bridge."
- (b) "Clerk" shall mean and include the clerk of the municipality and any officer or person authorized or required by the council to perform any duty which under this Act is to be or may be performed by the clerk. "Clerk."
- (c) "Constructing" and "construction" shall include reconstructing and reconstruction, wholly or in part, when the lifetime of the work has expired. "Constructing." "Construction."
1 Geo. V. c. 58, s. 2 (a-c).
- (d) "Corporation" shall mean the corporation of a municipality. 3-4 Geo. V. c. 44, s. 1 (1). "Corporation."
- (e) "Corporation's portion of the cost" shall mean that part or proportion of the cost of a work which is not to be specially assessed, but is payable by the corporation. 1 Geo. V. c. 58, s. 2 (e). "Corporation's portion of the cost."
- (f) "Council" shall mean the council of the corporation of a municipality. 3-4 Geo. V. c. 44, s. 1 (2). "Council."
- (g) "County" shall include "district." 1 Geo. V. c. 58, s. 2 (g). "County"
- (h) "Curbing" shall include a curbing of any material in or along a street, whether constructed in connection with or apart from the laying down of a pavement or sidewalk, or with or without a projection for the purpose of a gutter. "Curbing."
- (i) "Engineer" shall include an officer or person authorized or required by the council to perform "Engineer."

any duty which under this Act is to be or may be performed by an engineer.

"Frontage."

(j) "Frontage," when used in reference to a lot abutting directly on a work, shall mean that side or limit of the lot which abuts directly on the work.

"Judge of the County Court."

(k) "Judge of the County Court" shall mean and include the judge and a junior judge of a county or district court.

"Lifetime."

(l) "Lifetime," as applied or applicable to a work, shall mean the lifetime of the work as estimated by the engineer, or in case of an appeal as finally determined by the Court of Revision or the judge, as the case may be.

"Lot."

Rev. Stat.
c. 195.

(m) "Lot" shall mean a subdivision or a parcel of land which by *The Assessment Act* is required to be separately assessed, and "lots" shall mean more than one lot as so defined. 1 Geo. V. c. 58, s. 2 (i-n).

"Municipality."

(n) "Municipality" shall include a union of townships, a municipality composed of more than one township, a township, a city, a town, a village, but not a county. 1 Geo. V. c. 58, s. 2 (o); 3-4 Geo. V. c. 44, s. 1 (4).

"Owner,"
"Owners."

(o) "Owner" and "owners" shall mean respectively the person or persons appearing by the last revised assessment roll of the municipality to be the owner or owners of land, and, except in the case of a township, shall include a tenant for years, the unexpired term of whose tenancy including any renewal thereof to which he is entitled extends for not less than the period during which the special assessment for the work is to be made, if by the terms of his tenancy he would be liable for the payment of the special assessment for the work, but shall not include a person who is, or is assessed as, owner, where there is a tenant for years of the land, who is an owner within the meaning of this clause.

Owners'
portion of the
cost."

(p) "Owners' portion of the cost" shall mean that part or portion of the cost of a work which is to be specially assessed upon the land abutting directly on the work or upon land immediately benefited by the work.

"Pavement."

(q) "Pavement" shall include any description of pavement or roadway.

"Paving."

(r) "Paving" shall include macadamizing, planking, and the laying down or construction of any description of pavement or roadway and the construction of a curbing.

- (s) "Publication" and "published" shall mean in-^{"Publication."}
section in a newspaper published in the municipi-^{"Published."}
pality, if there is a newspaper published therein,
or, if there is none, then in a newspaper pub-
lished in the county in which the municipality
is situate.
- (t) "Sewer" shall include a common sewer and a ^{"Sewer."}
drain.
- (u) "Sidewalk" shall include a footway and a street ^{"Sidewalk."}
crossing.
- (v) "Specially assessed" shall mean specially rated <sup>"Specially
assessed."</sup>
for or charged with part of the cost of a work.
- (w) "Street" shall include a lane, an alley, a park, a ^{"Street."}
square, a public drive, and a public place, or a
part of any of them.
- (x) "Value" shall mean assessed value, exclusive of ^{"Value."}
buildings, according to the last revised assess-
ment roll of the municipality.
- (y) "Work" shall mean a work or service which may ^{"Work"}
be undertaken as a local improvement.
- (z) "Work undertaken" shall mean a work which is <sup>"Work un-
dertaken."</sup>
undertaken as a local improvement. 1 Geo. V.
c. 58, s. 2 (p-aa).

WORKS WHICH MAY BE UNDERTAKEN AS LOCAL
IMPROVEMENTS.

3.—(1) A work of any of the characters or descriptions <sup>Works which
hereinafter mentioned may be undertaken by the council of
a corporation as a local improvement, that is to say:</sup>
may be effected
as local im-
provements.

- (a) Opening, widening, extending, grading, altering
the grade of, diverting or improving a street;
- (b) Opening or establishing a new street;
- (c) Constructing a bridge as part of a street;
- (d) Constructing, enlarging, or extending a sewer;
- (e) Paving a street;
- (f) Constructing a curbing or a sidewalk in, upon or
along a street;
- (g) Constructing or maintaining a boulevard where a
part of a street has been set apart for the pur-
poses of a boulevard;
- (h) Sodding any part of and planting, maintaining
and caring for trees, shrubs and plants upon and
in a street;

- (i) The extension of a system of water, gas, light, heat or power works owned by the corporation, including all such works as may be necessary for supplying water, gas, light heat or power to the owners of land, for whose benefit such extension is provided.
- (j) Acquiring, establishing, laying out and improving a park or square not having a greater area than two acres, or a public drive.
- (k) Constructing, on petition only, retaining walls, dykes or breakwaters along the banks of rivers, but this clause shall only apply to a city or town. 1 Geo. V. c. 58, s. 3 (1).
- (l) In the case of cities and towns only, constructing and erecting on petition only, on any street or part of a street, equipment, plant and works for the purpose of supplying electric light or power, including standards and underground conduits and wires, to the extent to which the cost of the same exceeds the cost of the equipment, plant and works which would otherwise be provided at the expense of the corporation at large. 2 Geo. V. c. 44, s. 2; 3-4 Geo. V. c. 44, s. 2.

(2) Nothing in this section shall extend or apply to a work of ordinary repair or maintenance. 1 Geo. V. c. 58, s. 3 (2).

What works may be undertaken in connection with a sewer or pavement.

4.—(1) Where the work is the construction of a pavement, the Council, before constructing it, may make all necessary private drain connections from an existing sewer to the street line on either or both sides, and may also lay all necessary water mains and, where gas works are owned by the Corporation, all necessary gas mains, and make such alterations or renewals of water service pipes and stopcocks, and, where gas works are owned by the Corporation, of gas connections as are necessitated by the work, and, where the work is the construction of a sewer, the Council may make all necessary private drain connections to the street line on either or both sides; but the cost of a private drain connection, alteration or renewal of a water service pipe, stopcock or gas connection shall be specially assessed only upon the particular lot for or in connection with which it was constructed or affected.

To be part of work of construction.

(2) The works mentioned in subsection 1 shall be deemed part of the work of construction of the pavement or sewer in all respects except as to the manner in which the cost of them is to be specially assessed as provided by that subsection.

How to be assessed.

(3) The amount to be assessed against each lot in respect of a private drain connection, water service pipe or

gas connection shall be the cost thereof from the centre of the street to the street line, whether or not the sewer or water or gas main is laid in the centre of the street. 1 Geo. V. c. 58, s. 4.

5. Where a sewer has been or may hereafter be constructed, the Council, by a vote of two-thirds of all the members thereof at any general or special meeting, may undertake the construction of private drain connections from the sewer to the street line on either or both sides as a local improvement without any petition therefor, and the cost of each private drain connection shall be specially assessed upon the particular lot for or in connection with which it is constructed, and the owners of the land shall not have the right of petition provided for by section 13, and the provisions of subsection 3 of section 4 shall apply. 1 Geo. V. c. 58, s. 5.

Construction of private drain connections without petition.

6. In a township where the owners of land have constructed a work which might have been undertaken as a local improvement, the Council, upon the petition of three-fourths in number of the owners of the land to be immediately benefited by the acquisition of the work, representing at least two-thirds of the value of such land, may acquire the work at a price agreed upon or to be determined by arbitration under the provisions of *The Municipal Act*, and the purchase money may be provided by the Council and may be assessed in like manner as if the work were a work which the Council were undertaking as a local improvement, and all the provisions of this Act shall apply as if the Council were undertaking the work so acquired as a local improvement. 1 Geo. V. c. 58, s. 6.

Purchase by township of works already constructed.

Rev. Stat. c. 192.

7.—(1) Where the work is the opening, widening, or extension of a street or the construction of a bridge, and the cost of the work as estimated by the engineer will exceed \$50,000, any person whose land is to be specially assessed may, within ten days after notice to him of the intention of the Council to undertake the work, give notice that he objects to the work being undertaken upon the ground that it is a work for the general benefit of the municipality or of a section or district thereof, and if such notice is given the work shall not be undertaken without the approval of "The Ontario Railway and Municipal Board."

Approval of Ont. Ry. and Municipal Bd. required in the case of certain works.

(2) If the Board, after notice to the corporation and to all persons interested and after hearing such of them as shall request to be heard, determines that for the reasons mentioned in subsection 1, or either of them, it is proper to do so the Board may withhold its approval.

Approval may be withheld.

(3) If the Board determines that the cost of the work should be borne by the corporation or by the owners of the land situate within a section or district of the municipality,

Apportionment of cost of work.

the Board may make an order so declaring, and in that event the Council may, notwithstanding the provisions of this Act or of any by-law passed under the authority of this Act, undertake and proceed with the work at the cost of the corporation or of the section or district thereof mentioned in the order, as the case may be.

Or may direct the cost to be charged upon the abutting lots.

(4) The Board, instead of making an order under subsection 3, may direct that if the work is undertaken such part of the cost of it as the Board may deem just shall be charged upon the lots abutting directly upon the work, in accordance with the provisions of this Act and that the residue of it shall be borne by the corporation or partly by the corporation and partly by a section or district of the municipality in such proportions as the Board may direct, and if the Council undertakes the work, it shall conform with the directions of the order so made.

Special assessments to be made by the Council.

(5) The special assessment upon the lots shall not be made by the Board, but by the Council, in accordance with the provisions of this Act. 1 Geo. V. c. 58, s. 7.

PROCEDURE FOR UNDERTAKING WORK.

Methods of undertaking works.

8.—(1) A by-law may be passed for undertaking a work as a local improvement

(a) On petition, or

(b) Without petition, on the initiative of the Council, hereinafter called the initiative plan, except in the case of a park or square or public drive mentioned in clause (j) of section 3, or

(c) On sanitary grounds, as mentioned in section 10, or

(d) Without petition in the case mentioned in sections 5 and 9.

One by-law may include several works.

(2) Instead of passing separate by-laws for each work the Council may pass one by-law in respect of several works. 1 Geo. V. c. 58, s. 8.

Construction of certain works on a two-thirds vote of council without petition.

9. Notwithstanding anything to the contrary contained in this or any other Act or in any by-law of the municipality, where the Council determines and by by-law, passed at any general or special meeting by a vote of two-thirds of all the members thereof, declares that it is desirable that the construction of a curbing, pavement, sidewalk, sewer or bridge, or the opening, widening, extending, grading, altering the grade of, diverting or improving a street or the extension of a system of waterworks, should be undertaken as a local improvement, the Council may undertake the work without petition, and the owners of the land shall not have the right of petition provided for by section 13. 1 Geo. V. c. 58, s. 9 (1); 2 Geo. V. c. 44, s. 3; 3-4 Geo. V. c. 44, s. 3.

10. Where the Council, upon the recommendation of the Provincial Board of Health or of the Local Board of Health of the municipality, determines and, by by-law passed at a regular or special meeting of the Council by vote of two-thirds of all the members thereof, declares that the construction, enlargement or extension of a sewer as a local improvement is necessary or desirable in the public interest on sanitary grounds, the Council may undertake the work without petition, and the owners of the land shall not have the right of petition provided for by section 13. 1 Geo. V. c. 58, s. 10.

Construction of sewer on recommendation of Board of Health.

11. Where it is intended to proceed under sections 5, 9 or 10 the Council shall not be deemed to proceed on the initiative plan, but, before passing the by-law for undertaking the work, shall cause notice of its intention, Form 1, to be published. 1 Geo. V. c. 58, s. 11.

Publication of notice of intention.

12. The petition for a work shall be signed by at least two-thirds in number of the owners representing at least one-half of the value of the lots liable to be specially assessed. 1 Geo. V. c. 58, s. 12.

Number of signatures to petition required.

13.—(1) Where the Council proceeds on the initiative plan, notice of the intention of the Council to undertake the work, Form 2, shall be given by publication of the notice and by service of it upon the owners of the lots liable to be specially assessed; and unless within one month after the first publication of the notice a majority of the owners representing at least one-half of the value of the lots which are liable to be specially assessed petition the Council not to proceed with it the work may be undertaken as a local improvement.

Initiative plan—publication and service of notice of intention to construct work.

(2) The notice shall be sufficient if it designates by a general description the work to be undertaken and the street or place whereon or wherein, and the points between which the work is to be effected, and the number of the instalments by which the special assessment is to be payable.

Contents of notice.

(3) The notice may relate to and include any number of different works. 1 Geo. V. c. 58, s. 13 (1-3).

May cover different works.

(4) The notice may be served upon the owner

Manner of service.

(a) Personally, or

(b) By leaving it at his place of business or of residence if within the municipality, or

(c) By mailing it at a post office addressed to the owner at his actual place of business or of residence, if known, or at his place of business or residence as set forth in the last revised assessment roll of the municipality, or

(d) If the place of business and of residence of the owner are not known, by leaving the notice with a grown-up person on the lot of the owner which is liable to be specially assessed, if there is a grown-up person residing thereon. 1 Geo. V. c. 58, s. 13 (4); 2 Geo. V. c. 44, s. 5.

Where residence, etc., unknown

(5) If the place of business and of residence of the owner are unknown, and there is no grown-up person residing on the lot of the owner which is liable to be specially assessed, service upon the owner shall not be requisite.

Where residence, etc., is not in assessment roll.

(6) If the place of business or of residence of the owner do not appear upon the assessment roll, the owner may be treated and dealt with as an owner whose place of business and of residence are unknown.

Proof of publication and service.

(7) Publication and service of the notice may be proved by affidavit or statutory declaration and the affidavit or statutory declaration, before the passing of the by-law by which the special assessment is made to defray the cost of the work, shall be *prima facie* evidence, and after the passing of the by-law shall be conclusive evidence of the matters set forth in the affidavit or statutory declaration. 1 Geo. V. c. 58, s. 13 (5-7).

Effect of petition against work.

14.—(1) Where the Council has proceeded on the initiative plan and has been prevented from undertaking a work by reason of a petition having been presented under the provisions of section 13, the Council shall not proceed on the initiative plan with regard to the same work for a period of two years after the presentation of the petition: Provided always that in a municipality in which a by-law passed under the provisions of section 52 is in force the prohibition contained in this section shall not prevent the Council from again proceeding on the initiative plan with regard to such work if it is of a different kind or description from or less expensive than that originally proposed to be undertaken.

Proviso.

Powers conferred by section 9 not affected.

(2) Nothing in this section shall prevent the Council from exercising the power conferred by section 9. 1 Geo. V. c. 58, s. 14.

Lot of petitioner to be described.

15. There shall be set out opposite to every signature to the petition for or against a work a description of the lot of which the petitioner is the owner by its number or such other description as will enable the clerk to indentify it. 1 Geo. V. c. 58, s. 15.

Clerk to determine sufficiency of petition.

16.—(1) The sufficiency of a petition for or against a work shall be determined by the clerk, and his determination shall be evidenced by his certificate and when so evidenced shall be final and conclusive.

(2) Where the sufficiency of a petition has been determined by the Clerk it shall be deemed to have been and to be a sufficient petition notwithstanding that changes may be made by the Court of Revision or by the Judge in the lots to be specially assessed which have the effect of increasing or reducing the number of the lots. What owners to be counted.

(3) When it is necessary to determine the value of any lot and the same cannot be ascertained from the proper assessment roll by reason of the lot not having been separately assessed, or for any other reason, the clerk shall fix and determine the value of such lot and the value thereof as so fixed and determined shall be deemed for the purpose of this Act to be the assessed value thereof, and his determination shall be final and conclusive. Determining value of lots.

(4) Where a person who is, but does not appear by the last revised assessment roll of the municipality to be, the owner of land is a petitioner, he shall be deemed an owner if his ownership is proved to the satisfaction of the clerk, and if the person who appears by the assessment roll to be the owner is a petitioner his name shall be disregarded in determining the sufficiency of the petition. Owner whose name is not on roll may petition.

(5) Where two or more persons are jointly assessed for a lot, in determining the sufficiency of a petition, Case of joint owners.

(a) They shall be reckoned as one owner only;

(b) They shall not be entitled to petition unless a majority of them concur and the signatures of any of them, unless the petition is signed by the majority, shall be disregarded in determining the sufficiency of the petition.

(6) The clerk, for the purpose of any inquiry pending before him under the provisions of this section, may cause witnesses to be summoned and to be examined upon oath, and any person interested in the inquiry may, for the purpose of procuring the attendance of a witness, cause a subpoena to be issued out of the County Court of the county in which the municipality lies. Witnesses.

(7) A witness, if a resident of the municipality, shall be bound to attend without payment of any fees or conduct money, and if not a resident of the municipality shall be entitled to fees and conduct money according to the County Court scale. Witness fees.

(8) Where any person complains to the Clerk that his signature to the petition was obtained by fraud, misrepresentation or duress the complaint shall be investigated and determined by a Judge of the County Court, and the Clerk shall delay certifying until he has received the finding or report of the Judge upon the complaint, and in determining as to the sufficiency of the petition the Clerk shall give effect to such finding or report. 1 Geo. V. c. 58, s. 16. Complaints to be investigated by county judge.

Petitions to be lodged with clerk.

17. A petition for or against the undertaking of a work shall be lodged with the Clerk, and shall be deemed to be presented to the Council when it is so lodged. 1 Geo. V. c. 58, s. 17.

Withdrawal of name from petition.

18. No person shall have the right to withdraw his name from, and no name shall be added to, a petition after the Clerk has certified as to its sufficiency. 1 Geo. V. c. 58, s. 18.

HOW COST OF WORK TO BE BORNE.

Frontage rate.

19.—(1) Except as in this Act is otherwise expressly provided, the entire cost of a work undertaken shall be specially assessed upon the lots abutting directly on the work, according to the extent of their respective frontages thereon, by an equal special rate per foot of such frontage sufficient to defray such cost.

Items which may be included in cost.

(2) The following may be included in the cost of the work:

- (a) Engineering expenses.
- (b) Cost of advertising and service of notices.
- (c) Interest on temporary loans.
- (d) Compensation for lands taken for the purposes of the work or injuriously affected by it and the expenses incurred by the Corporation in connection with determining such compensation.
- (e) The estimated cost of the issue and sale of debentures and any discount allowed to the purchasers of them. 1 Geo. V. c. 58, s. 19.

Guarantee of work.

20. Where a contractor is employed to construct a pavement or sidewalk, and the council has required him to guarantee that he will so construct it that it shall, for a period not exceeding ten years, remain in good condition and suitable for safe and comfortable travel, and that he will, when required, make good any imperfections therein due to materials, workmanship or construction, in ascertaining the cost of the work no deduction shall be made from the sum paid to the contractor by reason of such guarantee having been required. 1 Geo. V. c. 58, s. 20.

Corporation portion of cost.

21. There shall be included in the corporation's portion of the cost:—

- (a) At least one-third of the cost of a sewer having a sectional area of more than four feet; and
- (b) The entire cost of all culverts and other works in connection with a sewer or pavement which are

provided and are required for surface drainage;
and

- (c) So much of the cost of a work as is incurred at street intersections. 1 Geo. V. c. 58, s. 21.

22.—(1) Where the work is the construction of a sewer the Council may, by a vote of three-fourths of all the members, provide that a certain sum per foot frontage shall be specially assessed upon the land abutting directly on the work and that the remainder of the cost of such sewer shall be borne by the corporation. Apportionment of cost of sewers.

(2) The part of the cost to be borne by the corporation shall not be less than that which, under section 21, is to be included in the corporation's portion of the cost. 1 Geo. V. c. 58, s. 22. Part to be borne by corporation.

23.—(1) The Council of the corporation of a municipality in which there is not in force a by-law passed under the provisions of section 51 applicable to the work may, by by-law passed at any general or special meeting by a vote of three-fourths of all the members of the Council, provide that such part as to the Council may seem proper of the cost of every granolithic, stone cement, asphalt or brick sidewalk, or of every pavement or curbing constructed as a local improvement which otherwise would be chargeable upon the land abutting directly on the work, shall be paid by the corporation. Corporation may assume part of cost of sidewalk or pavement.

(2) Such by-law shall not be repealed except by vote of three-fourths of all the members of the Council. 1 Geo. V. c. 58, s. 23. By-law not to be repealed except by three-fourths vote.

24.—(1) In the case of corner lots and triangular or irregularly shaped lots situate at the junction or intersection of streets a reduction shall be made in the special assessment which otherwise would be chargeable thereon sufficient, having regard to the situation, value and superficial area of such lots as compared with the other lots, to adjust the assessment on a fair and equitable basis. Reduction of assessment of corner lots, etc.

(2) Where a lot is for any reason, wholly or in part, unfit for building purposes, a reduction shall also be made in the special assessment which otherwise would be chargeable thereon, sufficient to adjust its assessment as compared with that of the lots fit for building purposes on a fair and equitable basis. Of lots unfit for building purposes.

(3) The reduction shall be made by deducting from the total frontage of the lot liable to the special assessment so much thereof as is sufficient to make the proper reduction, but the whole of the lot shall be charged with the special assessment as so reduced. How reduction to be made.

Reduction to be borne by corporation.

(4) The amount of any reduction made in the assessment of any lot under the provisions of this section shall not be chargeable upon the lots liable to be specially assessed, but shall be paid by the corporation. 1 Geo. V. c. 58, s. 24.

Assessment of cost of sidewalk or curb.

25. Where the work undertaken is a sidewalk or curbing, only the land abutting on that side of the street upon which the work is constructed shall be specially assessed. 1 Geo. V. c. 58, s. 25.

Assessment of non-abutting land for cost of certain sewers.

26.—(1) Where the work is a sewer and in order to afford an outlet for the sewage for any land not abutting directly on the work or for the drainage of it the sewer is of a larger capacity than is required for the purpose of the abutting land such other land may be specially assessed for a fair and just proportion of the cost of the work.

Method of assessment.

(2) In the cases provided for by subsection 1, that part of the cost of the work for which the abutting land is to be specially assessed shall be assessed upon it in the manner provided by section 19, and that part of the cost for which such other land is to be specially assessed shall be assessed upon it in the manner provided by sections 28 and 29. 1 Geo. V. c. 58, s. 26.

Apportionment of cost of a bridge or the opening, etc., of a street.

27.—(1) Where the work is the construction of a bridge or the opening, widening, extending, grading, altering the grade of, diverting or improving a street, and the Council is of opinion that for any reason it would be inequitable to charge the cost of the work on the land abutting directly thereon, the Council may provide for the payment by the corporation of such part of the cost, as to the Council may seem just, and so much of the residue thereof as may seem just may be specially assessed upon the land abutting directly on the work, and so much of such residue as may seem just on such other land as is immediately benefited by the work.

Method of assessment.

(2) In the cases provided for by subsection 1, that part of the cost of the work for which the abutting land is to be specially assessed shall be assessed thereon in the manner provided by section 19, and that part of the cost for which land not abutting directly on the work is to be specially assessed shall be assessed thereon in the manner provided by sections 28 and 29. 1 Geo. V. c. 58, s. 27.

Assessment of non-abutting land equally benefited.

28. Where land not abutting directly upon a work is to be specially assessed, if the whole of it is equally benefited, the portion of the cost to be borne by such land shall be specially assessed upon the lots according to the extent of their frontage by an equal special rate per foot of such frontage. 1 Geo. V. c. 58, s. 28.

29. Where land not abutting directly upon a work is to be specially assessed, and the whole of it is not equally benefited, such land shall be divided into as many districts or sections as there are different proportions of benefit and so that a district or section shall embrace all the land which will be benefited in the same proportion, and its proper portion of the cost shall be assigned to each district or section, and the portion of the cost to be borne by each district or section shall be specially assessed on the lots therein according to the extent of their frontage by an equal special rate per foot of such frontage. 1 Geo. V. c. 58, s. 29.

Assessment of non-abutting land unequally benefited.

PROCEDURE FOR MAKING SPECIAL ASSESSMENT.

30.—(1) Where the owners' portion of the cost is to be specially assessed upon the lots abutting directly on the work by an equal special rate per foot frontage, before passing the by-law for undertaking it, the Council shall procure to be made:

Where all of owners' portion assessed on abutting land.

- (a) A report as to the lifetime of the work;
- (b) A report as to the reductions, if any, which ought to be made under the provisions of section 24 in respect of any lot and the aggregate amount of such reductions;
- (c) An estimate of the cost of the work;
- (d) A statement of the share or proportion of the cost which should be borne by the land abutting directly on the work and by the corporation respectively;
- (e) A report as to the number of instalments by which the special assessment should be made payable;

(2) In the case of a work part of the owners' portion of the cost of which may be specially assessed on land not abutting directly on the work, before passing the by-law for undertaking the work, in addition to procuring the reports and estimate mentioned in subsection 1, the Council shall procure to be made a further report stating:

Where part of owners' portion assessed on non-abutting land.

- (a) Whether it would be inequitable to charge the whole of the owners' portion of the cost on the land abutting directly on the work;
- (b) If inequitable to do so, what portion of the cost should be borne by the corporation, what portion thereof should be specially assessed upon the land abutting directly on the work and what land not abutting directly on the work will be immediately benefited and should be specially assessed for any part of the cost and the portion of the cost which should be specially assessed upon it. 1 Geo. V. c. 58, s. 30.

Special
assessment roll
to be prepared.

31. Before a special assessment is imposed the Council shall procure to be made a special assessment roll in which shall be entered

- (a) Every lot to be specially assessed in respect of the owners' portion of the cost, the name of the owner and the number of feet of its frontage to be so assessed;
- (b) Every lot which, but for the provisions of section 48, would be exempt from the special assessment and the number of feet of its frontage;
- (c) The rate per foot with which each lot is to be so assessed;
- (d) The number of instalments by which the special assessment is to be payable. 1 Geo. V. c. 58, s. 31.

How reports,
statements,
etc. to be
made.

32. The Council may provide for the making of the reports, statements, estimates and special assessment roll mentioned in section 30 and 31 in such manner and by such officer of the corporation or person as the Council may deem proper, and may do so by a general by-law applicable to all works or to any class or classes of them or by a by-law applicable to the particular work. 1 Geo. V. c. 58, s. 32.

Holding of
Court of
Revision.

33.—(1) Before a special assessment is imposed a sittings of the Court of Revision for the hearing of complaints against the proposed special assessment shall be held.

Time and
place of.

(2) Ten days' notice of the time and place of the sittings shall be given by publication, and at least fifteen days before the day appointed for the sittings a notice, Form 3, shall be mailed to the owner of every lot which is to be specially assessed. 1 Geo. V. c. 58, s. 33.

Special assess-
ment roll to be
kept open for
ten days.

34. The special assessment roll shall be kept open for inspection at the office of the clerk for at least ten days next before the day appointed for the sittings of the Court of Revision. 1 Geo. V. c. 58, s. 34.

Statement of
cost of work
for Court of
Revision.

35. A statement showing under appropriate heads the actual cost of the work, verified by the certificate of the Clerk, Assessment Commissioner or Treasurer of the municipality shall be delivered to the Chairman of the Court of Revision before the meeting of the Court. 1 Geo. V. c. 58, s. 35.

Powers of
Court.

36.—(1) The Court of Revision shall have jurisdiction and power to review the proposed special assessment and to correct the same as to all or any of the following matters:

(a) Where the owners' portion of the cost is to be specially assessed against the land abutting directly on the work, as to the following matters:

- i. The names of the owners of the lots;
- ii. The frontage or other measurements of the lots;
- iii. The amount of the reduction to be made under the provisions of section 24 in respect of any lot;
- iv. As to the lots which, but for the provisions of section 48, would be exempt from special assessment;
- v. As to the lifetime of the work; and
- vi. As to the rate per foot with which any lot is to be specially assessed.

(b) Where part of the owners' portion of the cost is to be specially assessed on land not abutting directly on the work, in addition to the matters mentioned in clause (a), as to the lots other than those abutting directly on the work which are or will be immediately benefited by it, and as to the special assessment which such lots should respectively bear.

(c) In all cases as to the actual cost of the work.

(2) The Court of Revision shall not have jurisdiction or authority to review or to alter the proportions of the cost of the work which the lands to be specially assessed and the corporation are respectively to bear according to the provisions of the by-law for undertaking the work. 1 Geo. V. c. 58, s. 36.

No power to alter proportions of cost.

37.—(1) Where it appears to the Court of Revision that any lot which has not been specially assessed should be specially assessed, before finally determining the matter the Court shall adjourn its sittings to a future day and shall cause notice, Form 3, to be given to the owner of such lot of the time and place when the adjourned sittings will be held.

Adjourned sittings of Court in case of omission to assess certain lots.

(2) The notice shall be mailed at least six days before the time fixed for the adjourned sittings.

Time for mailing notice.

(3) If the Court of Revision determines that any such lot ought to be specially assessed, the Court shall have jurisdiction and power to fix and determine the amount of the special assessment thereon. 1 Geo. V. c. 58, s. 37.

Power to fix special assessment of lots.

38. The clerk shall make such corrections in the special assessment roll as are necessary to give effect to the decisions of the Court of Revision, and the roll when so corrected shall

When special assessment roll to be final.

be certified by the Clerk, and when so certified, except in so far as it may be further amended on appeal to the Judge, such assessment roll and the special assessment shall be valid and binding upon all persons concerned and upon the land specially assessed, notwithstanding any defect, error or omission therein or any defect or error in the by-law for undertaking the work or in any notice given or proceeding taken or the omission of any proceeding or thing which ought to have been taken or done before the passing of the by-law for undertaking the work or thereafter down to and including the completion of such revision. 1 Geo. V. c. 58, s. 38.

Appeal to
County Judge.

39.—(1) The Council or the owner of a lot specially assessed may appeal to the Judge of the County Court from any decision of the Court of Revision.

Application
of Rev. Stat.
c. 195.

(2) The provisions of *The Assessment Act* as to appeals to the Judge shall apply to an appeal under the provisions of subsection 1.

Powers of
judge.

(3) The Judge shall have the like jurisdiction and powers as are conferred on the Court of Revision by section 36, and the provisions of section 37 shall apply where it appears to the Judge that any lot not specially assessed ought to be so assessed. 1 Geo. V. c. 58, s. 39.

BORROWING POWERS.

Temporary
loans.

40.—(1) The Council may agree with any bank or person for temporary advances to meet the cost of the work pending the completion of it.

Issue of
debentures.

(2) The Council may, when the work undertaken is completed, borrow on the credit of the corporation at large such sums as may be necessary to defray the cost of the work undertaken, including the corporation's portion of the cost, and may issue debentures for the sums so borrowed.

Application of
Rev. Stat.
c. 192.

(3) The provisions of *The Municipal Act* as to by-laws for creating debts shall apply to by-laws passed under the authority of subsection 2, except that it shall not be necessary

(a) That the by-law be submitted to or receive the assent of the electors.

(b) That any rate be imposed for the payment of the principal of so much of the money borrowed as represents the owners' portion of the cost or of the interest thereon, other than the special rate per foot frontage imposed to meet it.

Rev. Stat.
c. 192.

(c) To comply with the provisions of subsections 5 and 7 of section 263 of *The Municipal Act*.

and except that the debentures, save as provided by section 42, shall be payable within the lifetime of the work.

(4) The special rates imposed for the owners' portion of the cost shall form a special fund for the payment of the debentures issued under the authority of subsection 2 and the interest thereon and shall not be applicable to or be applied for any other purpose.

Special rates for owner's portion to form special fund.

(5) If in any year the amount realized from the special rate imposed to provide for the owners' portion of the cost and interest is insufficient to pay the amount falling due in such year in respect of so much of the debentures as represent the owners' portion of the cost the Council shall provide for the deficiency in the estimates for the following year and levy and collect the same by a general rate, but this shall not relieve the land specially assessed from the special rate thereon.

General rate to meet deficiency in special rate.

(6) The amount borrowed under the provisions of subsection 2, in respect of the owners' portion of the cost, shall not be deemed to be part of the existing debenture debt of the corporation within the meaning of section 288 of *The Municipal Act*.

Owner's portion not to be deemed part of debenture debt of corporation. Rev. Stat. c. 192.

(7) Instead of borrowing the amount of the corporation's portion of the cost of a work undertaken the Council may include the same in the estimates of the year. 1 Geo. V. c. 58, s. 40.

Corporation's portion may be included in yearly estimates.

41.—(1) Where two or more works have been constructed and the by-laws provided for by subsection 2 of section 40 have been passed, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council by by-law, hereinafter called the consolidating by-law, may provide for borrowing the aggregate of such separate sums and for issuing one series of debentures therefor.

Consolidation of by-laws.

(2) The consolidating by-law shall show by recitals or otherwise in respect of what separate by-laws it is passed.

Recitals.

(3) It shall not be necessary that the consolidating by-law shall impose any rate to provide for the payment of the debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose. 1 Geo. V. c. 58, s. 41.

Rates not to be imposed by consolidating by-law.

42.—(1) The Council shall impose upon the land liable therefor the special assessment with which it is chargeable in respect of the owners' portion of the cost, and the same shall be payable in such annual instalments as the Council shall prescribe, but not so as to extend beyond the lifetime of the work unless the work is of the class prescribed in clause (j) of section 3, in which case the annual instalments may extend over a period of not more than 40 years.

Term of annual instalments of special assessment.

Interest.

(2) In fixing the amount of the annual instalments a sum sufficient to cover the interest shall be added.

Commutation
of special rates.

(3) The Council may also either by general by-law or by a by-law applicable to the particular work prescribe the terms and conditions upon which persons whose lots are specially assessed may commute for a payment in cash the special rates imposed thereon. 1 Geo. V. c. 58, s. 42.

Application
of Rev. Stat.
c. 195, ss. 94-97.

43. The provisions of sections 94 to 97 and the other provisions of *The Assessment Act* as to the collection and recovery of taxes, and the proceedings which may be taken in default of payment thereof, shall apply to the special assessments and the special rates imposed for the payment of them. 1 Geo. V. c. 58, s. 43.

Where special
assessments
irregular new
assessments
may be made.

44.—(1) If a debt has been incurred by the corporation for or in respect of a work undertaken before the passing of this Act and after the incurring of the debt, the special assessment for the work is found or adjudged to be invalid or the by-law for borrowing money to defray the cost of the work is quashed or set aside either wholly or in part by reason of any irregularity or illegality in making such assessment or in passing such by-law, the Council shall cause a new assessment to be made or may pass a new by-law when and so often as may be necessary to provide the money required to be raised to discharge the debt so incurred.

Where by-law
quashed Court
may direct
passing of new
by-law.

(2) In the case of a work undertaken after the passing of this Act, if the special assessment in respect of it has become confirmed under the provisions of section 38, no by-law for borrowing money to defray the cost of the work or for imposing the special assessment shall be quashed, set aside or adjudged to be invalid by reason of its illegality or of any defect in it, but the Court in which any proceeding for quashing, setting aside or declaring to be invalid the by-law is taken shall on such terms and conditions as to costs and otherwise as may be deemed proper direct the Council to amend or to repeal such by-law and, where a repealing by-law is directed, to pass a new by-law in proper form in lieu of the repealed by-law, and it shall be the duty of the Council to pass such by-law or by-laws accordingly.

Liabilities
incurred to be
binding.

(3) Every liability or obligation incurred and every debenture issued by the corporation under the authority of any such defective or illegal by-law shall be as effectual and as binding as if the amending or new by-law directed to be passed had been passed and was in force at the time such liability or obligation was incurred or such debenture was issued.

Where Court
of its own
motion directs
passing of new
by-law.

(4) Although no proceeding has been taken to quash, set aside or declare invalid the by-law the Council may of its own motion and if required by any person to whom it has incurred any liability on the faith of the bylaw shall pass

such amending or new by-law as may be necessary to make effectual and binding the liability so incurred and any debenture issued under the authority of such by-law, and the provisions of subsection 3 as to the effect of an amending or new by-law shall apply to any by-law so passed. 1 Geo. V. c. 58, s. 44.

REPAIR OF WORK.

45.—(1) After a work undertaken has been completed, it shall during its lifetime be kept in repair by and at the expense of the corporation. Maintenance and repair of work by corporation.

(2) Nothing in this Act shall relieve the corporation from any duty or obligation to keep in repair the highways under its jurisdiction to which it is subject either at common law or under the provisions of *The Municipal Act*, or otherwise, or impair or prejudicially affect the rights of any person who is damnified by reason of the failure of the corporation to discharge such duty or obligation. 1 Geo. V. c. 58, s. 45. General duty to repair not affected. Rev. Stat. c. 192.

46.—(1) Where, at any time during the lifetime of a work undertaken, the corporation fails to keep and maintain it in a good and sufficient state of repair, and, after one month's notice in writing by the owner or occupant of any lot specially assessed requiring the corporation to do so does not put the work in repair, a Judge of the Supreme Court, or the Judge of the County Court of the County in which the municipality lies, upon the application of any owner or occupant of any land so specially assessed, may make an order requiring the corporation to put the work in repair. Compelling corporation to repair.

(2) The Judge may determine what repairs are necessary and by his order may direct them to be made in such manner, within such time and under such supervision as he may deem proper. Determination as to necessary repairs.

(3) Where a person under whose supervision the repairs are to be made is appointed, the Judge may fix and determine the remuneration to be paid to such person and the same shall be paid by the corporation and payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money. Remuneration of person supervising.

(4) The order shall have the same effect and may be enforced in like manner as a peremptory mandamus. Effect of order.

(5) If the corporation does not comply with the order of the Judge, in addition to any other remedy to which the applicant for the order may be entitled, the Judge may authorize the repairs to be made by the applicant, and if made by him the cost thereof shall be ascertained and determined by the Judge, and when so ascertained and determined payment thereof may be enforced in like manner and by the same process as a judgment for the payment of money. When repairs may be made by applicant and payment therefor.

Appeal to
Divisional
Court.

(6) An appeal shall lie to a Divisional Court from any order made under the provisions of this section, and the procedure where the appeal is from an order of a Judge of the Supreme Court shall be the same as on an appeal from an order made in an action in the Supreme Court, and if the appeal is from an order of a Judge of a County Court the same as on an appeal from an appealable order made in an action in the County Court. 1 Geo. V. c. 58, s. 46.

ASSESSMENT OF LAND EXEMPT FROM TAXATION.

Certain lands
exempt from
taxation liable
to be specially
assessed.

47. Land on which a church or place of worship is erected or which is used in connection therewith, and the land of a university, college or seminary of learning, whether vested in a trustee or otherwise, which is exempt from taxation under *The Assessment Act*, except schools maintained in whole or in part by a legislative grant or a school tax, shall be liable to be specially assessed. 1 Geo. V. c. 58, s. 47.

Rev. Stat.
c. 195.

Land exempt
from taxation
for local im-
provements
to be
specially
assessed.

48. Land exempt from taxation for local improvements under any general or special Act shall nevertheless, for all purposes except petitioning for or against undertaking a work, be subject to the provisions of this Act and shall be specially assessed; but the special assessments imposed thereon which fall due while such land remains exempt shall not be collected or collectable from the owner thereof but shall be paid by the corporation. 1 Geo. V. c. 58, s. 48.

STREET CLEANING, ETC.

Cleaning,
watering,
lighting
streets, etc.

49.—(1) The council may by by-law provide that thereafter the annual cost of cleaning, clearing of snow and ice, watering, oiling, sweeping, lighting, light supplied in excess of that supplied at the expense of the corporation at large, cutting grass and weeds and trimming trees and shrubbery on any street, or any one or more of such services shall be specially assessed upon the land abutting directly on such street according to the frontage thereof, and the foregoing provisions of this Act shall not apply to such services. 1 Geo. V. c. 58, s. 49 (1); 2 Geo. V. c. 44, s. 6.

Application to
defined areas.

(2) Instead of naming the particular street or streets the by-law may apply to all the streets in a defined section or sections of the municipality.

Special rate.

(3) Where the council so provides the amount of the special rate imposed to defray such cost may be entered on the collector's roll and collected in like manner as other taxes.

Duration of
by-law.

(4) The by-law shall remain in force from year to year until repealed. 1 Geo. V. c. 58, s. 49 (2-4).

50.—(1) Where a highway forms the boundary between two or more municipalities although it lies wholly within one or partly within two or more of them, the corporations of the municipalities may agree

Power to construct works on boundary lines.

- (a) to undertake in respect of such highway or any part of it any work or service which may be undertaken as a local improvement under this Act;
- (b) as to the council by which the work or service shall be undertaken;
- (c) as to whether the corporations' portion of the cost shall be provided for by borrowing or shall be included in the estimates of the year; and
- (d) as to the proportions in which the corporations' portion of the cost shall be borne by such corporations respectively.

(2) The Council of the municipality which according to the agreement is to undertake the work or service, hereinafter called the initiating council, shall have all the powers and perform all the duties in respect of it which may be exercised or are to be formed by the council of a municipality which undertakes a work or service as a local improvement under this Act, and the highway shall, for the purposes of the work or service, be deemed to lie wholly within and to be under the exclusive jurisdiction of the initiating council.

Powers and duties of initiating council.

(3) The clerk of the initiating council shall forthwith, after the passing of its by-law imposing the special rates to defray the owners' portion of the cost, deliver or transmit by registered post to the clerk of any municipality in which is situate any land upon which a special rate has been imposed a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

Certified copies of by-law to be sent to clerks of other municipalities.

(4) The rates required by the by-law to be levied and collected in any year upon land in any municipality other than that by the council of which the by-law is passed shall be collected by the council of such municipality in like manner as if such rates had been imposed by that council.

Collection of rates in other municipalities.

(5) The corporation of each of the municipalities other than that by the council of which the work or service is undertaken shall pay to the last mentioned corporation the sums which are to be levied and collected in that year under the next preceding subsection, and such payment shall be made on demand therefor at any time after the 14th day of December in that year, and shall be made whether or not such rates have been collected from the persons liable to pay them.

Payment over to initiating council.

Payment not
to relieve
land assessed.

(6) Such payment shall not relieve any land specially assessed from the special rate thereon, but it shall remain liable for the special rate until it is paid.

Payment over
where corpora-
tions' part
included in
estimates.

(7) Where the agreement provides that the corporations' portion of the cost shall be included in the estimates of the year, the corporation of each of the municipalities, other than that by the council of which the work or service is undertaken, shall pay to that corporation when the amount of the corporations' portion of the cost is finally determined its share or portion of such cost, and the amount so paid shall be provided for in the estimates for the then current year of the council of the corporation which is to pay it.

Where corpora-
tions' portion
met by issue of
debentures.

(8) Where the agreement provides that the amount required to defray the corporations' portion of the cost is to be borrowed, the corporation of each of the municipalities, except that by the council of which the work or service is undertaken, shall in each year during the currency of the debentures issued for the money borrowed pay to that corporation the same proportion of the principal and the interest payable in that year as under the agreement it is to bear of the corporations' portion of the cost, and the amount which the by-law for borrowing the money requires to be raised in that year shall be reduced by the sum so paid.

Maintenance
and repair.

(9) The corporations shall bear the cost of keeping the work in repair in the proportions in which the cost of the work is to be borne by them. 3-4 Geo. V. c. 44, s. 4.

SPECIAL PROVISIONS AS TO TOWNSHIPS, VILLAGES, ETC.

Waterworks
and fire
engines.

51.—(1) The council of a township or village may undertake as a local improvement

- (a) The construction of waterworks;
- (b) The purchase of fire engines and other appliances for the purpose of fire protection;
- (c) The laying of mains and other appliances to connect with any existing system of waterworks whether owned by the corporation or by any other person. 1 Geo. V. c. 58, s. 50 (1); 3-4 Geo. V. c. 44, s. 5.

Assessment of
owners' part in
land in
defined areas.

(2) The council, by the by-law for undertaking the work, may provide that the owners' portion of the cost shall be specially assessed against the land in any defined section or sections of the municipality, and that the annual cost of managing and maintaining the work shall be assessed against and levied upon such land. 1 Geo. V. c. 58, s. 50 (2).

Trustees for
managing fire
engines and
appliances.

(3) In the case of the purchase of fire engines and other appliances for the purpose of fire protection the council may, by by-law, provide for

- (a) The election of a board of three trustees, and the time and manner of holding the election;
- (b) The term of office of such trustees;
- (c) Filling vacancies in such board;
- (d) The election of an auditor;
- (e) The appointment of a second auditor by such board; and
- (f) The duties of such auditors.

1 Geo. V. c. 58, s. 50 (3); 3-4 Geo. V. c. 44, s. 5.

(4) The board of trustees shall have the care, control and management of such fire engines and appliances. Care and control of fire engines, etc.

(5) No person shall be entitled to vote at the election of such trustees unless he is the owner of land to be specially assessed under the provisions of subsection 2 and is also qualified to vote at municipal elections. 1 Geo. V. c. 58, s. 50 (4-5). Qualification of voters for election of trustees.

ADOPTION OF LOCAL IMPROVEMENT SYSTEM.

52.—(1) The council of a corporation by by-law passed with the assent of the municipal electors, in accordance with the provisions of *The Municipal Act*, may provide that all works which may be undertaken as local improvements, or any one or more classes or descriptions of such works thereafter, or after a day named in the by-law, shall be undertaken as local improvements and not otherwise. Adoption of local improvement system Rev. Stat. c. 192.

(2) The by-law may be repealed but only by a by-law passed with the like assent. 1 Geo. V. c. 58, s. 51. Repeal of by-law.

MISCELLANEOUS.

53. The special assessment and the special rates charged or chargeable upon land for or in respect of the cost of any work undertaken, whether upon petition or otherwise, except so much of them as is in arrear and unpaid, shall not, as between a vendor and a purchaser, or as respects a covenant against incumbrances, or for the right to convey, or for quiet possession free from incumbrances, be deemed to be an incumbrance upon the land upon which the special rate is charged or chargeable. 1 Geo. V. c. 58, s. 52. Special rates and covenant against incumbrances.

54. Proceedings for undertaking a work begun by one council may be continued, and the work may be begun, continued and completed by a succeeding council. 1 Geo. V. c. 58, s. 53. When work may be completed.

55. The Ontario Railway and Municipal Board may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under or in carrying out the Municipal Board may prescribe forms.

provisions of this Act, and every by-law, notice or other proceeding which is in substantial conformity with the form so approved shall not be open to objection on the ground that it is not in the form required by the provisions of this Act applicable thereto; but the use of such forms shall not be obligatory. 1 Geo. V. c. 58, s. 54.

FORM 1.

Section 11.

Take notice that

1. The Council of the Corporation of the _____ of _____ intends to construct as a local improvement (*describe the work*) on (or in) _____ street, between (*describe the points between which the work is to be constructed*) and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed add*) and upon the following land which is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is \$ _____, of which \$ _____ is to be paid by the Corporation. The estimated special rate per foot frontage is _____. The special assessment is to be paid in _____ annual instalments.

3. A petition against the work will not avail to prevent its construction.

Dated, _____ Clerk.

(Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.)

FORM 2.

Section 13.

Take notice that

1. The Council of the Municipal Corporation of the _____ of _____ intends to construct (*describe the work*) on (or in) _____ street between (*describe the points between which the work is to be constructed*) as a local improvement and intends to specially assess a part of the cost upon the land abutting directly on the work (*in case other land is to be specially assessed add*) and upon the following land which is immediately benefited by the work (*describe the land*).

2. The estimated cost of the work is \$ _____, of which \$ _____ is to be paid by the Corporation, and the estimated special rate per foot frontage is _____. The special assessment is to be paid in _____ annual instalments.

3. Persons desiring to petition against undertaking the work must do so on or before the _____ day of _____ 19 _____.

Dated, _____ Clerk.

(Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.)

FORM 3.

Sections 33 (2) and 37.

Take notice that

1. The Council of the Corporation of the _____ of _____ has constructed as a local improvement (*describe the work*) on (or in) _____ street between (*describe the points between which the work has been constructed*).

2. The cost of the work is \$ _____, of which \$ _____ is to be paid by the Corporation. The special rate per foot frontage is _____. The special assessment is to be paid in annual instalments.

3. The estimated lifetime of the work is _____ years.

4. A Court of Revision will be held on the _____ day of _____ 19____, at _____ o'clock at the (*insert place of meeting*) for the purpose of hearing complaints against the proposed assessments or the accuracy of frontage measurements and any other complaint which persons interested may desire to make and which is by law cognizable by the Court.
or (*where the Court of Revision proceeds under section 37*).

4. You are served with this notice because the Court of Revision is of the opinion that your lot though not specially assessed should be specially assessed in respect of the owners' portion of the cost of the work and an adjourned sittings of the Court will be held on the _____ day of _____ 19____, at _____ o'clock at the (*insert place of meeting*) when the matter will be determined by the Court.

Dated _____

Clerk.

(Note.—Where that part of the municipality in which the land to be specially assessed is situate is divided into districts or sections the form will be altered to show the special rate per foot frontage in each district or section.)

CHAPTER 194.

An Act respecting Surveys and Plans of Land in certain Cities and their Suburbs.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The City and Suburbs Plans Act*. 2 Geo. V. c. 43, s. 1.

Plan of proposed survey and subdivision to be submitted to Ontario Railway and Municipal Board.

2.—(1) Where any person is desirous of surveying and subdividing into lots, with a view to the registration of a plan of the survey and subdivision, any tract of land lying within or within five miles of a city having a population of not less than 50,000 he shall submit a plan of the proposed survey and subdivision to The Ontario Railway and Municipal Board for its approval. 2 Geo. V. c. 43, s. 2.

Plan to show boundaries, etc.

(2) Such plan shall show the boundaries of the land owned by such person and also of the part thereof proposed to be subdivided and shall be certified by an Ontario Land Surveyor. 3-4 Geo. V. c. 45, s. 1.

Board may require changes.

3.—(1) The Board shall have authority before approving of the proposed plan to require such changes to be made in it as the Board may deem proper as fo

(a) The number and width of the roads or streets;

(b) The direction in which the roads and streets are to run and their location; and

(c) The size and form of the lots.

Minimum width of roads and streets.

(2) Nothing in clause (a) shall authorize the laying out of any road or street less than 66 feet in width. 2 Geo. V. c. 43, s. 3.

What to be considered by Board in coming to its decision.

4. In determining as to the suitability of the proposed plan, or as to the desirability of any change in it, the Board, where the land lies within the city, shall have regard to making the subdivision and roads and streets and their location and width, and the direction in which they are to run, conform as far as practicable with any general plan which has been adopted or approved by the council of the city in accordance with which it is contemplated that the city and suburbs shall be laid out or the re-arrangement of the streets

and thoroughfares shall be effected; and where the land is situate without the limits of the city the Board shall have regard to

- (a) The proximity of the land to the city;
- (b) The probability of the limits of the city being extended so as to include it;
- (c) The securing of driveways and adequate thoroughfares connecting the city and the outlying districts;
- (d) Making the subdivision and the roads and streets and their location, and width, and the direction in which they are to run conform as far as practicable with any plan so adopted or approved, or if no such plan has been adopted or approved with the plan on which that part of the city which lies nearest to the land is laid out. 2 Geo. V. c. 43, s. 4.

5.—(1) No plan of any such land shall be registered unless it has been approved by the Board and a certificate of its approval signed by the Chairman or a member of the Board or the Secretary is endorsed on the plan, and no lot laid down on a plan not so approved shall be sold or conveyed by a description containing any reference to the lot as so laid down or to such plan. 2 Geo. V. c. 43, s. 5.

Approval of
plan and
certificate
before sale.

(2) Forthwith after the approval of a plan by the Board the person submitting the same shall furnish a copy thereof as approved and certified by the Board to the clerk of the corporation of the city. 3-4 Geo. V. c. 45, s. 2.

Copy of plan to
be sent to city
clerk.

6.—(1) Notice of an application to the Board for its approval of a plan shall be given to the corporation of the municipality in which the land is situate and to the corporation of the city, and all parties interested shall be entitled to be heard and may be represented by counsel at the hearing of the application.

Notice of
Application
for approval
of plan to be
given.

(2) A copy of the plan shall accompany such notice. 2 Geo. V. c. 43, s. 6.

Copy of plan
to be furnished.

7.—(1) Objections to the plan shall be stated in writing and be filed with the Secretary of the Board within twenty-one days after delivery of the notice and plan.

Objections
to plan.

(2) If no objection is made within that period the applicant shall be entitled to have the plan certified as approved unless the Board of its own motion otherwise directs. 2 Geo. V. c. 43, s. 7; 3-4 Geo. V. c. 18, s. 37.

Where no
objection
made.

Sittings of
the Board.

8. Sittings of the Board shall, if required by the Council of the Municipality objecting to the plan, take place at such time and place in the City nearest to the land as the Board, by notice to the applicant and to the Clerk of the Municipality requesting the same appoints. 2 Geo. V. c. 43, s. 8.

CHAPTER 195.

An Act respecting Municipal Taxation.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PRELIMINARY PROVISIONS.

1. This Act may be cited as *The Assessment Act*. 4 Edw. Short title.
VII. c. 23, s. 1.

2. In this Act Interpretation.

(a) "County" shall include district; "County."

(b) "County Council" shall include provisional county council; "County Council."

(c) "County Court" shall include district court; "County Court."

(d) "County Judge" shall include district judge; "County Judge."

(e) "Income" shall mean the annual profit or gain or gratuity whether ascertained and capable of computation as being wages, salary, or other fixed amount or unascertained as being fees or emoluments, or as being profits from a trade or commercial or financial or other business or calling directly or indirectly received by a person from any office or employment, or from any profession or calling, or from any trade, manufacture or business, as the case may be; and shall include the interest, dividends or profits directly or indirectly received from money at interest upon any security or without security, or from stocks, or from any other investment, and also profit or gain from any other source;

(f) "Insurance Company" shall mean any company or friendly society or other corporation transacting business within Ontario any class of insurance to which *The Ontario Insurance Act* applies or may hereafter be made applicable by any general or special Act of this Legislature; "Insurance Company." Rev. Stat. c. 183.

(g) "Judge of the County Court" shall include a junior judge, a deputy judge and a judge authorized to sit or act for a judge of the County Court; "Judge of the County Court."

"Land."

(h) "Land," "Real Property" and "Real Estate" shall include;

1. Land covered with water;
2. All trees and underwood growing upon land;
3. All mines, minerals, gas, oil, salt, quarries and fossils in and under land;
4. All buildings, or any part of any building, and all structures, machinery and fixtures, erected or placed upon, in, over, under, or affixed to, land;
5. All structures and fixtures erected or placed upon, in, over, under, or affixed to any highway, lane, or other public communication or water; but not the rolling stock of any railway, electric railway, tramway or street railway;

"Last revised assessment roll."

(i) "Last revised assessment roll" shall mean the last revised assessment roll of a municipality; and an assessment roll shall be deemed to be finally revised and corrected when it has been so revised and corrected by the Court of Revision, or by a Judge of the County Court on appeal as by this Act provided, or when the time within which appeal may be made has elapsed;

"Loan Company." Rev. Stat. c. 184.

(j) "Loan Company" shall mean a "Loan Corporation" within the meaning of *The Loan and Trust Corporations Act*;

"Municipality."

(k) "Municipality" shall mean and include a city, town, incorporated village or township, but not a county;

"Tenant."

(l) "Tenant" shall include occupant and the person in possession other than the owner;

"Town." "Village."

(m) "Town" and "Village" shall mean respectively incorporated town and village;

"Township"

(n) "Township" shall include a union of townships;

"Trust Company." Rev. Stat. c. 184.

(o) "Trust Company" shall mean a trust company within the meaning of *The Loan and Trust Corporations Act*.

"Voters' list." Rev. Stat. c. 6.

(p) "Voters' list" shall mean the alphabetical list referred to in *The Ontario Voters' Lists Act*. 4 Edw. VII. c. 23, s. 2; 3-4 Geo. V. c. 46, s. 2.

All taxes to be levied equally upon all assessments.

3. All municipal, local or direct taxes or rates shall where no other express provision is made be levied upon the whole of the assessment for real property, income and business or other assessments made under this Act, according to the

amounts assessed in respect thereof, and not upon any one or more kinds of property or assessment or in different proportions. 4 Edw. VII. c. 23, s. 3.

4. Wherever in *The Municipal Act*, or in any other general or special Act of this Legislature or in any by-law passed under any such Act, the yearly rates or any special rate are expressly or in effect directed or authorized to be levied upon all the rateable property of the municipality for any municipal or school purpose, such rates shall be calculated at so much in the dollar upon the total assessment of the municipality and shall be calculated and levied upon the whole of the assessment for real property, income and business or other assessments made under this Act. 4 Edw. VII. c. 23, s. 4.

Rateable property, what to include, Rev. Stat. c. 192.

5. All real property in Ontario and all income derived either within or out of Ontario by any person resident therein, or received in Ontario by or on behalf of any person resident out of the same shall be liable to taxation, subject to the following exemptions:—

1. The interest of the Crown in any property, including property held by any person in trust for the Crown, or in trust for any tribe or body of Indians.

Interest of the Crown in any property.

2. Every place of worship and land used in connection therewith and every churchyard, cemetery or burying ground.

Churches, etc.

3. The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a university, high school, public or separate school, whether vested in a trustee or otherwise, so long as such buildings and grounds are actually used and occupied by such institution, but not if otherwise occupied. 4 Edw. VII. c. 23, s. 5, pars. 1-3; 10 Edw. VII. c. 88, s. 1 (1).

Public educational institutions.

4. The buildings and grounds of, and attached to, or otherwise *bona fide* used in connection with and for the purposes of a seminary of learning maintained for philanthropic, religious, or educational purposes, the whole profits from which are devoted or applied to such purposes only, but such grounds and buildings shall be exempt only while actually used and occupied by such seminary. 10 Edw. VII. c. 88, s. 1 (2).

Seminaries of learning.

5. Every city or town hall, and every court house, gaol, lock-up and public hospital receiving aid under *The Hospitals and Charitable Institutions Act*, with the land attached thereto but not land of a public hospital when occupied by any person as tenant or lessee. 4 Edw. VII. c. 23, s. 5, par 4; 8 Edw. VII. c. 50, s. 1.

City and town halls, etc. Rev. Stat. c. 300.

6. Every highway, lane or other public communication and every public square. 4 Edw. VII. c. 23, s. 5, par. 5.

Highways, etc.

Municipal
property.

7. The property belonging to any county or municipality or vested in or controlled by any public commission wherever situate and whether occupied for the purposes thereof or unoccupied; but not when occupied by a tenant or lessee. 4 Edw. VII. c. 23, s. 5, par. 6; 3-4 Geo. V. c. 46, s. 3.

Public parks.

8. The property belonging to any municipality, and in use as a public park, whether situate within the municipality or in an adjacent municipality.

Industrial
farm, house
of refuge,
etc.

When property
of charitable
institution to
be exempt.

9. Every industrial farm, house of industry, house of refuge, orphan asylum, and every boys' or girls' or infants' home or other charitable institution conducted on philanthropic principles and not for the purpose of profit or gain, and every house belonging to a company for the reformation of offenders, and the land belonging to or connected with the same; but not when occupied by a tenant or lessee. 4 Edw. VII. c. 23, s. 5, par. 9; 1 Geo. V. c. 59, s. 1.

Children's
Aid Societies.
Rev. Stat.
c. 231.

10. The property of any children's aid society incorporated under *The Children's Protection Act of Ontario*, whether held in the name of the society or in the name of a trustee or otherwise, if used exclusively for the purposes of and in connection with the society.

Income
of Friendly
Societies.

11. The income from the surplus funds of a Registered Friendly Society.

Scientific or
literary insti-
tutions, etc.

12. The property of every public library and other public institution, literary or scientific, and of every agricultural or horticultural society or association, to the extent of the actual occupation of such property for the purposes of the institution or society.

Exhibition
Buildings of
companies.

13. The land of every company formed for the erection of exhibition buildings to the extent to which the council of the municipality in which such land is situate consents that it shall be exempt.

Official
income of
Governors.

14. The official income of the Governor-General of Canada, and the official income of the Lieutenant-Governor of Ontario.

Income of
officers, etc.,
on full pay.

15. The full or half-pay of any officer, non-commissioned officer or private of His Majesty's regular Army or Navy; and any pension, salary, gratuity or stipend derived by any person from His Majesty's Treasury, and the income of any person in such Naval or Military service, on full pay, or otherwise in actual service.

Income from
farms.

16. The income of a farmer derived from his farm. 4 Edw. VII. c. 23, s. 5, pars. 10-15.

Machinery.

17. All fixed machinery used for manufacturing or farming purposes, including the foundations on which the same rests; but not fixed machinery used, intended or required for the production or supply of motive power including

boilers and engines, gas, electric and other motors, nor machinery owned, operated or used by a railway company or by a person having the right, authority or permission to construct, maintain or operate within Ontario in, under, above, on or through any highway, lane or other public communication, public place or public water, any structure or other thing, for the purposes of a bridge, tramway or street railway, or for the purpose of conducting steam, heat, water, gas, oil, electricity, or any property, substance, or product capable of transportation, transmission or conveyance for the supply of water, light, heat, power, or other service. 4 Edw. VII. c. 23, s. 5, par. 16; 10 Edw. VII. c. 88, s. 1 (3); 1 Geo. V. c. 59, s. 2.

18. The dividends or income from stock held by any person in an incorporated company, the income of which is liable to assessment in Ontario. Income from stock in companies.

19. The dividends or income from the stock or shares held by any person in a toll road. 4 Edw. VII. c. 23, s. 5, pars. 17, 18. Toll road stock.

20. The annual income derived from personal earnings or from any pension, gratuity, or retiring allowance in respect of personal services by any person assessable directly in respect of income under this Act to the amount of \$1,500 where such person is resident in a city or town, or to the amount of \$1,200 where such person is resident in any other municipality, if such person is a house-holder in the municipality and assessed as such, or being the head of a family occupies with his family any portion of a dwelling house, although not assessed therefor, and the annual income derived from personal earnings or from any pension, gratuity or retiring allowance in respect of personal services of every person not being such house-holder or head of a family to the amount of \$600 where he is resident in a city or town, and to the amount of \$400 where he is resident in any other municipality, and the income of any person derived from any investment, or from money on deposit in any bank or other financial institution or loaned upon mortgages, promissory notes or other securities if such income does not exceed \$400, and the income of such person from all sources does not exceed \$400. 3-4 Geo. V. c. 46, s. 4. Exemptions on income.

21. Rent or other income derived from real estate, except interest on mortgages. 4 Edw. VII. c. 23, s. 5, par. 20. Rental of real estate, etc.

6. The exemptions provided for by section 5 shall be subject to the provisions of *The Local Improvement Act* as to the assessment for local improvements of land, which would otherwise be exempt from such assessment under that section. 4 Edw. VII. c. 23, s. 6; 8 Edw. VII. c. 50, s. 2. Assessments for local improvements. Rev Stat. c. 193.

Exemption of
certain officers
of Superior
Courts.

7. The exemption to which certain officers connected with the Superior Courts were, at the time of their appointment, and on the 5th day of March, 1880, entitled by Statute, in respect of their salaries, shall continue as to such officers only as were appointed before that date. 4 Edw. VII. c. 23, s. 7.

Assessment of
persons for
exempted
income at
request.

8.—(1) Where any person is entitled by law to exemption from assessment in respect of income, he may, upon making an affidavit, Form 1, require his name to be entered upon the assessment roll for such income, for the purpose of being entitled to vote at municipal elections; and upon such affidavit being delivered to the assessor at any time before the day fixed for the return of his roll, it shall be the duty of the assessor to enter the name of such person on the roll; and such income shall be liable to taxation like other assessable income.

(2) Such affidavit may be made before the assessor or as provided in section 228. 4 Edw. VII. c. 23, s. 8.

Assessment
of land after
transfer or
cesser of
exemption.

9.—(1) Whenever a transfer is made of any land theretofore exempt from taxation under section 5, to some person not thereafter entitled to such exemption, or whenever land used for some purpose which would entitle it to exemption under that section ceases to be so used, or whenever the period for which any land is declared to be exempt from taxation under any statute or by-law expires, such land shall immediately be liable for so much of the taxes as it would have been liable for thereafter, if it had not been exempt.

Special
provision
where
assessment
roll com-
pleted.

(2) If the assessment for such municipality or the ward or part thereof where such land is situate has been completed before such transfer, cesser of user or expiration of exemption, or so far completed that the same cannot be assessed in the usual manner, the assessor or assessment commissioner shall assess the land as though the assessment were not completed, and the person assessed therefor shall have the right to appeal against such assessment within four days after receiving notice thereof; and if he appeals therefrom, all the provisions of this Act as to appeals to or from the Court of Revision shall apply; and thereafter such person shall be liable for the taxes thereon at the rate fixed for such year as though his name and the description of the land and the value thereof and other particulars were inserted in the usual way.

Not to apply
after rate of
taxation for
year fixed.

(3) This section shall not apply to enable any taxes for the current year to be collected upon any such land after the by-law fixing the rate of taxation for such year has been passed. 4 Edw. VII. c. 23, s. 9.

Business
assessment.

10.—(1) Irrespective of any assessment of land under this Act, every person occupying or using land for the purpose of any business mentioned or described in this section shall be

assessed for a sum to be called "Business Assessment" to be computed by reference to the assessed value of the land so occupied or used by him, as follows:—

- (a) Every person carrying on the business of a distiller for a sum equal to 150 per cent. of the assessed value.
- (b) Every person carrying on the business of a brewer for a sum equal to 75 per cent. of the assessed value of the land occupied or used by him for such business exclusive of any portion of such land occupied and used by him as a malting house and for a sum equal to 60 per cent. of the assessed value as to such last mentioned portion. 4 Edw. VII. c. 23, s. 10 (1) (a-b).
- (c) Every person carrying on the business of a wholesale merchant, of an insurance company, a loan company or a trust company, as defined by this Act, or of an express company carrying on business on or in connection with a railway or steamboats or sailing or other vessels or of a land company, or of a loaning land corporation, or of a bank or a banker, or of any other financial business for a sum equal to 75 per cent. of the said assessed value. 4 Edw. VII. c. 23, s. 10 (1) (c); 10 Edw. VII. c. 88, s. 3.
- (d) Subject to the provisions of clause (i) every person carrying on the business of a manufacturer for a sum equal to 60 per cent. of the assessed value; and a manufacturer shall not be liable to business assessment as a wholesale merchant by reason of his carrying on the business of selling by wholesale the goods of his own manufacture on such land. 4 Edw. VII. c. 23, s. 10 (1) (d); 10 Edw. VII. c. 88, s. 6 (2).
- (e) Every person carrying on the business of what is known as a departmental store or of a retail merchant dealing in more than five branches of retail trade or business in the same premises or in separate departments of premises under one roof, or in connected premises, where the assessed value of the premises exceeds \$20,000, or of a coal or wood or lumber dealer, lithographer, printer or publisher, except the publisher of a newspaper, or the business of selling, bartering or trafficking in fermented, spirituous or other liquors in any premises in respect of which a shop license has been granted, for a sum equal to 50 per cent. of the assessed value; but in cities having a population of not less than 100,000 coal dealers shall be assessed for a sum equal to 30 per cent. of the

assessed value. 4 Edw. VII. c. 23, s. 10 (1) (e); 10 Edw. VII. c. 88, ss. 4 (1), 5 (1).

- (f) Every person practising or carrying on business as a barrister, solicitor, notary public, conveyancer, physician, surgeon, oculist, aurist, medical electrician, dentist, veterinarian, civil, mining, consulting, mechanical or electrical engineer, surveyor or architect and, subject to subsection 6, every person carrying on a financial or commercial business or any other business as agent only, for a sum equal to 50 per cent. of the said assessed value; but where a person belonging to any class mentioned in this clause occupies or uses land partly for the purposes of his business and partly as a residence 50 per cent. of the assessed value of the land occupied or used by him shall for the purpose of the business assessment be taken to be the full assessed value of the land so occupied or used. 4 Edw. VII. c. 23, s. 10 (1) (h); 6 Edw. VII. c. 36, s. 3.
- (g) Every person carrying on business as the publisher of a newspaper in a city, for a sum equal to 35 per cent., and in any other municipality for a sum equal to 25 per cent. of the assessed value. 10 Edw. VII. c. 88, s. 5 (2).
- (h) Every person carrying on the business of a retail merchant in cities having a population of 50,000 or over for a sum equal to 25 per cent. of the assessed value; in other cities and towns having a population of 10,000 or over for a sum equal to 30 per cent. of the assessed value; and in all other municipalities for a sum equal to 35 per cent. of the assessed value. 4 Edw. VII. c. 23, s. 10 (1) (g).
- (i) Every person carrying on the business of a flour miller in a mill producing on an average less than 50 barrels a day, for a sum equal to 35 per cent. of the assessed value. 10 Edw. VII. c. 88, s. 6 (1).
- (j) Every person carrying on the business of a photographer, or of a theatre, concert hall, or skating rink, or other place of amusement, or of a boarding stable, or a livery, or the letting of vehicles or other property for hire, or of a restaurant, eating house, or other house of public entertainment, or a hotel in respect of which a tavern license has been granted, or any business not before in this section or in clause (k) specially mentioned, for a sum equal to 25 per cent. of the assessed value. 4 Edw. VII. c. 23, s. 10 (1) (h); 6 Edw. VII. c. 36, s. 2.

(k) Every person carrying on the business of a telegraph or telephone company, or of an electric railway, tramway, street railway or incline railway, or of the transmission of oil or water, or of steam, heat, gas, or electricity for the purposes of light, heat or power, for a sum equal to 25 per cent. of the assessed value of the land (not being a highway, lane, or other public communication or public place or water or private right of way), occupied or used by such person, exclusive of the value of any machinery, plant or appliances erected or placed upon, in, over, under or affixed to such land. 4 Edw. VII. c. 23, s. 10 (1) (i).

(2) Every proprietary or other club in which meals or ^{Clubs.} spirituous or fermented liquors are furnished, whether to members or others, shall be liable to a business assessment for a sum equal to 25 per cent. of the assessed value of the land occupied or used for the purposes of the club. 10 Edw. VII. c. 88, s. 4 (2).

(3) No person shall be assessed in respect of the same pre- ^{Persons carry-} mises under more than one of the clauses of subsection 1, and ^{ing on more} where any person carries on more than one of the kinds of ^{than one class} business mentioned in that subsection on the same premises, he shall be assessed by reference to the assessed value of the whole of the premises under that one of those clauses in which is included the kind of business which is the chief or preponderating business of those so carried on by him in or upon such premises. 4 Edw. VII. c. 23, s. 10 (2).

(4) Where the amount of the assessment of any person ^{Minimum} assessable under this section would under the foregoing pro- ^{assessment.} visions be less than \$250, he shall be assessed for the sum of \$100. 4 Edw. VII. c. 23, s. 10 (3); 6 Edw. VII. c. 36, s. 4.

(5) Where any person mentioned in subsection 1 occupies or ^{Where land} uses land partly for the purpose of his business and partly for ^{used partly} the purpose of a residence he shall be assessed in respect of ^{for business} the part occupied for the purpose of his business only; but ^{and partly} this provision shall not apply to persons assessed under clause ^{for residence.} (f) of subsection 1. 4 Edw. VII. c. 23, s. 10 (4).

(6) A financial or commercial business shall not include ^{Certain busi-} a business carried on by operating steamboats, sailing or ^{nesses not} other vessels, tow barges or tugs; nor the business of a steam ^{included.} railway. 4 Edw. VII. c. 23, s. 10 (5); 6 Edw. VII. c. 36, s. 5.

(7) No person occupying or using land as a farm, market- ^{Farmers, mar-} garden or nursery shall be liable to business assessment in ^{ket gardeners} respect of such land. 4 Edw. VII. c. 23, s. 10 (5). ^{and nursery-} ^{men.}

(8) Except as provided in clause (c) of subsection 1 of ^{Income from} section 11 every person liable to assessment in respect of a ^{business not} business shall not be assessed in respect of income derived ^{assessable.}

from such business, nor shall any person be assessed in respect of dividends derived by him from shares in the stock of a corporation carrying on a mercantile or manufacturing business and which corporation is subject to assessment under subsection 1; nor shall the premiums or assessments of an insurance company be assessable; nor shall any subordinate lodge of any registered Friendly Society or any officer thereof in respect of any business of such subordinate lodge be liable to any business assessment. 4 Edw. VII. c. 23, s. 10 (7); 6 Edw. VII. c. 36, s. 6.

Banks, trust
and loan
companies,
etc.

(9) Banks, trust, loan, loaning land, insurance, railway, telegraph, telephone and express companies and any company having rights or powers upon a highway, shall not be deemed to carry on a mercantile or manufacturing business within the meaning of subsection 8. 10 Edw. VII. c. 88, s. 8.

Tax not a
charge on
land.

(10) Every person assessed for business assessment shall be liable for the payment of the tax thereon and the same shall not constitute a charge upon the land occupied or used. 4 Edw. VII. c. 23, s. 10 (8).

Effect of
general
words.

(11) Wherever in this section general words are used for the purpose of including any business which is not expressly mentioned, such general words shall be construed as including any business not expressly mentioned, whether or not such business is of the same kind as or of a different kind from those expressly mentioned. 1 Geo. V. c. 59, s. 6.

Taxation on income directly.

Taxable
income.

11.—(1) Subject to the exemptions provided for in sections 5 and 10:—

- (a) Every person not liable to business assessment under section 10 shall be assessed in respect of income;
- (b) Every person although liable to business assessment under section 10 shall also be assessed in respect of any income not derived from the business in respect of which he is assessable under that section, and
- (c) Every person liable to business assessment under clause (f) of subsection 1 of section 10 shall also be assessed in respect of the income derived by him from his business, profession or calling, to the extent to which such income exceeds the amount of such business assessment.

Assessment
of where
not a fixed
sum.

(2) Where such income is not a salary or other fixed amount capable of being estimated for the current year, the income of such person for the purposes of assessment shall be taken to be not less than the amount of his income during the year ending on the 31st December then last past. 4 Edw. VII. c. 23, s. 11.

12.—(1) Subject to subsection 6 of section 40 every person assessable in respect of income under section 11 shall be so ^{Place of assessment for income.} assessed in the municipality in which he resides either at his place of residence or at his office or place of business. 4 Edw. VII. c. 23, s. 12 (1); 7 Edw. VII. c. 41, s. 2.

(2) Subject to subsection 6 of section 40 the income of a ^{Partnerships.} partnership, or of an incorporated company, if assessable, shall be assessed against the partners at their chief place of business, and against the company at its head office, or if the company has no head office in Ontario, at its chief place of business in the municipality. 4 Edw. VII. c. 23, s. 12 (2); 7 Edw. VII. c. 41, s. 2.

13.—(1) Every agent, trustee or person who collects or ^{Income in control of agent, etc.} receives, or is in any way in possession or control of income for or on behalf of a person who is resident out of Ontario, shall be assessed in respect of such income.

(2) Every person assessed under this section shall be ^{Place of assessment.} assessed at his place of business, if any, or if he has no place of business, at his residence. 4 Edw. VII. c. 23, s. 13.

Telegraph and Telephone Companies.

14.—(1) Every telephone company carrying on business ^{Assessment of telephone companies, on income in cities, towns, villages and police villages.} in a city, town, village, or police village, in addition to any other assessment to which it may be liable under this Act, shall be assessed for 60 per cent. of the amount of the gross receipts belonging to the company in the city, town, village, or police village, from the business of the company for the year ending on the 31st day of December next preceding the assessment; but in cities having a population of not less than 100,000 such company shall be assessed for 75 per cent. of such gross receipts. 4 Edw. VII. c. 23, s. 14 (1).

(2) Every telephone company shall be assessed in every ^{Assessment of telephone companies on mileage in townships.} township for one ground circuit (being a single wire for carrying a message) or metallic circuit (being two wires for carrying a message), as the case may be, placed or strung on the poles or other structures or in conduits operated or used by the company in the township and in use on the 31st day of December next preceding the assessment at the rate of \$135 per mile and if any line of poles or other structures or conduits carries more than one ground circuit or metallic circuit at the rate of \$7.50 per mile for each additional ground circuit or metallic circuit, as the case may be, placed or strung on the 31st day of December next preceding the assessment.

(3) Where a local telephone system does not operate ^{Lines of local telephone systems.} generally throughout Ontario and is not authorized by Statute to carry on business throughout Ontario, the lines of the company within any township shall be assessed at their actual value, but not exceeding in the whole the rates per mile pre-

scribed by this section. 4 Edw. VII. c. 23, s. 14 (2); 6 Edw. VII. c. 36, s. 7.

What wires
not to be
assessed.

(4). In the computation of the length of such telephone wires in a township the wires placed or strung within a police village and the wires of every line not exceeding 25 miles in length, where all the telephones thereon are operated upon the same circuit and which is not used as a connecting line between two or more central exchange switchboards, shall not be included. 3-4 Geo. V. c. 46, s. 5.

Telegraph
companies.
Assessment
on income in
cities, towns,
villages and
police vil-
lages.

(5) Every telegraph company carrying on business in a city, town, village or police village shall in addition to any other assessment to which it may be liable under this Act be assessed for 50 per cent. of the amount of the gross receipts belonging to the company in such city, town, village or police village from the business of the company for the year ending on the 31st day of December next preceding the assessment. 4 Edw. VII. c. 23, s. 14 (4).

Assessment
on mileage in
townships.

(6) In every township there shall be assessed against every such telegraph company a sum equal to \$40 for every mile of the length of one wire placed or strung on the poles or other structures or in conduits operated or used by the company in the township and in use on the 31st day of December next preceding the assessment and a sum equal to \$5 per mile for each additional wire so placed or strung on the 31st day of December next preceding the assessment.

Telegraph
and telephone
plant of
railways.

(7) The telephone and telegraph plant, poles and wires of a steam railway company which are used exclusively in the running of trains or for any other purposes of a steam railway and not for commercial purposes shall be exempt from assessment; but each of such wires when used for commercial purposes shall be assessed at \$5 per mile in the manner hereinbefore mentioned. 4 Edw. VII. c. 23, s. 14 (5); 6 Edw. VII. c. 36, s. 8.

Wires in
police villages
and branch
and loop
lines ex-
cluded.

(8) In the computation of the length of telegraph wires and additional wires for assessment in a township the wires placed or strung within the area of any police village and the wires of all branch and loop lines which do not exceed twenty-five miles in length shall not be included.

What to be
measured as
separate
wires.

(9) In the measurement of such additional wires, the length of every telegraph wire and of every telephone wire forming a ground circuit or pair of telephone wires forming a metallic circuit, as the case may be, placed or strung in cables or other combinations, and used or capable of being used as an independent means of conveying messages shall be computed.

Exemption
from other
assessments.

(10) Every company assessed as provided in this section shall, in townships, be exempt from assessment in any other manner or on any other property for municipal purposes, and

shall, in cities, towns, villages and police villages be exempt from assessment in respect of all plant, appliances and machinery wherever situate and in respect of all structures placed on, over, under, or affixed to any highway, lane or other public communication, public place or water.

(11) Where the poles, structures, conduits or wires of a telegraph or telephone company are placed on the boundary line between two townships or so near thereto that they are in some places on one side and in other places on the other side of the boundary line or are placed on a road which lies between two townships, although it may deviate so as in some places to be wholly or partly within either of them, the company shall be assessed in each township for one-half of the amount assessable against it under subsections 2, 3, 6 or 7 as the case may be, in both the townships taken together.

Poles and wires on township boundaries.

(12) The taxes payable by a company under this section shall be a lien on all the lands of the company in the municipality. 4 Edw. VII. c. 23, s. 14 (6-10).

Tax to be a lien on lands of company.

15.—(1) Every telegraph and telephone company doing business in Ontario shall on or before the 1st day of March in each year transmit to the Provincial Secretary a statement in writing showing:—

Returns by telegraph and telephone companies.

- (a) The gross receipts of the company in Ontario and the gross receipts of the company in each city, town, village and police village, from its business for the year ending on the 31st day of December then last past;
- (b) The length in miles of one wire or of a pair of wires placed or strung on all the poles or other structures or in conduits operated or used by the company in each township;
- (c) The number of miles in length of one wire or of one pair of wires, as the case may be, operated or used by the company in each township, including in the measurement the length in each township of every wire or pair of wires, as the case may be, placed or strung in cables or other combinations, and used or capable of being used as an independent means of conveying messages; and

transmit to the assessment commissioner, or if there is no assessment commissioner, to the clerk, of every city, town and village and to the clerk of the township in the case of a police village in which the company does business, a statement in writing of the amount of the gross receipts of the company in such city, town, village or police village for the year ending on the 31st day of December then last past. 4 Edw. VII. c. 23, s. 15 (1); 8 Edw. VII. c. 50, s. 3.

Verifying
statement.

(2) Every such statement shall be signed by or on behalf of the company and shall be verified in the same manner as assessment returns are required by section 19 to be verified. 4 Edw. VII. c. 23, s. 15 (2).

ASSESSMENT RETURNS BY TAX-PAYERS.

Information
to assessors
generally.

16. Every person assessable shall give all necessary information to the assessors, if required by them, for the purposes of enabling them to properly assess him. 4 Edw. VII. c. 23, s. 16.

Information
by employers
as to
employees.

17. Every person employing any other person in his trade, manufacture, business or calling within 10 days after demand therefor shall furnish to the assessors information concerning the names, places of residence, and wages, salary or other remuneration of all persons employed by him whose wages, salary or other remuneration are not exempt under the provisions of paragraph 20 of section 5. 4 Edw. VII. c. 23, s. 17.

Requisitions
by assessor
for infor-
mation.

18.—(1) Any assessor requiring information from any person pursuant to section 16, shall cause to be delivered or mailed to the address of such person a notice, Form 2, accompanied by such blank forms of the assessment return to be made by such person as may be necessary; and such person shall, within ten days thereafter, enter in the forms all the particulars required by the notice, in the proper blanks and columns, and deliver or mail such return to the assessor.

Verifying
statement.

(2) Before delivering or mailing the return to the assessor it shall be signed by or on behalf of such person, and shall be verified by an affidavit as in Form 2, attached thereto.

(3) Such affidavit may be made before the assessor or as provided in section 228. 4 Edw. VII. c. 23, s. 18.

Returns by
corporation
as to share-
holders.

19.—(1) Every corporation whose dividends are liable to taxation against the shareholders as income, which has received a notice from the assessor or assessment commissioner requiring it to do so, shall within thirty days thereafter deliver or mail to the assessor or assessment commissioner a statement in writing setting forth the names of all shareholders who are resident in the municipality or who ought to be assessed for their income therein, the amount of stock held by every shareholder on the day named for that purpose by the assessor or assessment commissioner in the notice, and the amount of dividends and bonuses declared during the twelve months next preceding.

(2) The notice shall be delivered or mailed by registered post to the principal officer of the corporation in Ontario or to the manager, cashier or other chief officer of any branch or agency of such corporation in Ontario or be left at such principal office or the office of such manager, cashier or other chief officer, and the notice shall be deemed to have been received when it was so delivered, mailed or left.

(3) Every such statement shall be verified by an affidavit ^{Verifying statement.} as in Form 2, attached thereto, made by some officer of the corporation having a knowledge of the facts. 4 Edw. VII. c. 23, s. 19.

20.—(1) The assessor shall not be bound by any statement ^{Assessor not bound by returns.} delivered under the next preceding four sections, nor shall the same excuse him from making due inquiry to ascertain its correctness; and, notwithstanding any such statement, the assessor may assess every person for such amount as he believes to be just and correct, and may omit his name or any land which he claims to own or occupy, if the assessor has reason to believe that he is not entitled to be placed on the roll or to be assessed for such land.

(2) Except when examined as a witness before a Court ^{Information to be confidential.} no assessor, assessment commissioner, assistant or other person employed by the corporation of the municipality shall communicate or allow to be communicated to any person except to the solicitor of the corporation in the discharge of his duty any information obtained under the provisions of sections 16 to 19 or allow any person to inspect or have access to any written statement furnished under the provisions of sections 18 or 19 and no person other than the assessor or assessment commissioner and their assistants shall be entitled to any information respecting the assessment of any person other than as provided in section 50. 4 Edw. VII. c. 23, s. 20 (1-2).

(3) Every person who contravenes subsection 2 shall incur ^{Penalty.} a penalty not exceeding \$200. 10 Edw. VII. c. 88, s. 26.

21.—(1) Every person who, having been duly required to ^{Penalty for not furnishing information.} deliver or furnish any written statement or information mentioned in the next preceding five sections, makes default in delivering or furnishing the same and any corporation which makes default in delivering the statement mentioned in section 15, shall incur a penalty not exceeding \$100 and an additional penalty of \$10 for each day during which default continues.

(2) Every person who knowingly states anything false in ^{Penalty for false statement.} any such statement or in furnishing such information shall incur a penalty not exceeding \$200. 10 Edw. VII. c. 88, s. 27.

DUTIES OF ASSESSORS.

PREPARATION OF ASSESSMENT ROLLS.

22.—(1) Every assessor shall prepare an assessment roll ^{Assessment rolls form and contents} in which after diligent inquiry he shall set down according to the best information to be had, the particulars hereinafter mentioned, and in doing so he shall observe the following provisions:—

Names of
persons
assessed.

- (a) He shall set down the names and surnames, in full, if the same can be ascertained, of all persons, whether they are or are not resident in the municipality, ward, or district for which he has been appointed, who are liable to assessment therein.

Amount
assessed
against them.

- (b) He shall set down in the proper column opposite his name the amounts assessable against each person.

Subdivisions
to be
designated.

- (c) Land known to be subdivided shall be designated in the roll by the numbers or other designation of the subdivisions, with reference where necessary to the plan or survey thereof, and land not subdivided into lots shall be designated by its boundaries or other intelligible description. 4 Edw. VII. c. 23, s. 22 (1), *part*.

Description
of part
of lot.

- (d) Where part of a lot in a city, town or village is to be assessed it shall be a sufficient description of it if the name of the owner and the tenant, if any, and the number of feet of its frontage are entered on the assessment roll; and the part assessed shall be deemed to be that part of the lot belonging to the owner whose name is so entered. 3-4 Geo. V. c. 46, s. 6 (1).

Each lot to
be assessed.

- (e) Each subdivision shall be assessed separately, and every parcel of land (whether a whole subdivision or a portion thereof, or the whole or a portion of any building thereon) in the separate occupation of any person, shall be separately assessed. 4 Edw. VII. c. 23, s. 22 (1), *cl. (d)*.

Description
of block
of vacant
land.

- (f) Where a block of vacant land subdivided into lots is owned by the same person it may be entered on the roll as so many acres of the original block or lot if the numbers and description of the lots into which it is subdivided are also entered on the roll, and the provisions of section 133 shall apply. 3-4 Geo. V. c. 46, s. 6 (2).

Assessment of
both owner
and tenant.

- (g) Subject to the provisions of subsection 5, where land is assessed against both owner and tenant, both names shall be entered on the roll, bracketed opposite the land, and numbered on the roll.

Deceased
persons.

- (h) No assessment shall be made against the name of any deceased person, but when the assessor is unable to ascertain the name of the person who should be assessed in lieu of the deceased person, he may enter instead of such name, the words "Representatives of A. B., deceased" (*giving the name of such deceased person*).

Non-
residents.

- (i) In assessing land of non-residents to which subsection 6 of section 37, is applicable, the assessor shall enter such land at the end of the assessment

roll, separated from the other assessments and placed under the heading "Land of Non-residents," and shall fill in as far as is possible under such heading with regard to such land, the particulars mentioned in columns 1, 2, 6 to 16 inclusive, and 23. 4 Edw. VII. c. 23, s. 22 (1), cls. (f-g).

(2) The assessor when making the annual assessment, shall inquire of every resident taxable person whether there have been any births or deaths in the family within the previous twelve months, ending on the 31st day of December then last past, and the dates thereof and shall enter the number and dates opposite the name of the person assessed, in the proper column. 4 Edw. VII. c. 23, s. 22 (2). Inquiry as to births and deaths.

(3) The assessor shall set down the particulars in separate columns as follows: Further particulars.

Column 1.—The successive number on the roll.

Column 2.—Name (surname first) and post office address of taxable person (including both the owner and tenant in regard to each parcel of land, and persons otherwise taxable) or persons entitled to be entered on the roll as a farmer's son.

Column 3.—The age of every person entered on the roll.

Column 4.—Statement whether the person is a freeholder or tenant by inserting opposite his name the letter "F." or "T." as the case may be; and where, in any municipality in which *The Manhood Suffrage Registration Act* is not in force, the person is entitled to be entered upon the roll as qualified to vote under *The Ontario Election Act*, and, where in any municipality in which the first mentioned Act is in force the person is qualified to vote at municipal elections therein as well as at elections for the Assembly, there shall also be entered opposite his name in that column, in capitals, the letters "M.F.," meaning thereby "Manhood Franchise"; and where the person is a "farmer's son," there shall also be similarly entered the letters "F.S."; and all such names shall be numbered on the roll. Rev. Stat cc. 7, 8.

Column 5.—Occupation, and in the case of women a statement whether the person is a spinster, married woman, or widow, by entering opposite the name of the person the letter "S," "M," or "W," as the case may be, and in the case of a non-resident owner the letters "N.R." *See as to Trustees, etc., sec. 37 (12).*

Column 6.—Number of concession, name of street, or other designation of the local division in which the land lies and residence, in the case of manhood suffrage voters and other persons not assessed for land.

Column 7.—Number of lot, house, etc., in such division. (*See also subsection 4.*)

Column 8.—Number of acres, or other measures showing the extent of the property.

Column 9.—Number of acres cleared, including as cleared all land cleared of trees, arable or otherwise fit for cultivation, or suitable for pasture, and in cities, towns or villages, whether vacant or built upon.

Column 10.—Number of acres of woodland.

Column 11.—Number of acres of slash land.

Column 12.—Number of acres of swamp, marsh or waste land.

Column 13.—Actual value of the parcel of real property, exclusive of the buildings thereon. 4 Edw. VII. c. 23, s. 22 (3), *part*.

Column 14.—Value of buildings as determined under section 40. 3-4 Geo. V. c. 46, s. 10.

Column 15.—Total actual value of the land.

Column 16.—Total amount of taxable land.

Column 17.—Total value of the land if liable for school rates only.

Column 18.—Total value of land exempt from taxation or liable for local improvements only.

Column 19.—Amount of Business Assessment under section 10.

Column 20.—Amount of income taxable under sections 11 to 13.

Column 21.—Total Assessment.

Column 22.—Religion.

Column 23.—School sections, and whether a public or separate school supporter by inserting the letters "P" or "S" as the case may be.

Column 24.—Number of children between the ages of 5 and 21. *See Rev. Stat. c. 266, s. 48 (3).*

Column 25.—Number of children between the ages of 5 and 16. *See Rev. Stat. c. 266, s. 73 (d).*

Column 26.—Number of persons in the family of each person assessed as a resident, including such person and all other persons residing on the premises.

Column 27.—Number of days statute labour for which each person is liable.

Column 28.—Births.

Column 29.—Deaths.

Column 30.—Number of dogs and number of bitches.

Column 31.—Date of delivery of notice under section 49.

Column 32.—Remarks. 4 Edw. VII. c. 23, s. 22 (3), *part*.

(4) Opposite the name of every person entered on the assessment roll but not assessed for land the assessor shall, in column 6 and 7 enter: When residence of person assessed to be entered.

(a) In the case of a city, town or village, the residence of such person by its number (if any) and the street or locality in which the same is situate;

(b) In the case of a township, the concession wherein and the lot or part of a lot whereon such person resides;

and in all cases any additional description, as to locality or otherwise, which may be reasonably necessary to enable such residence to be ascertained and verified.

(5) In cities and towns the assessor may vary the form of the assessment roll so as to show in columns 1, 2, 3, 4 and 5 the name and other particulars relating to tenants (or if there is no tenant by entering in column 2 the words "vacant lot"), and in an additional set of columns numbered 1a, 2a, 3a, 4a and 5a similar particulars relating to the owner or tenant if the tenant is a lessee holding under a lease extending over twenty-one or more years, and by inserting in column 4a the letters "O" or "L," as the case may require, opposite the name of the owner or lessee. Special columns in cities and towns.

(6) In a city or town the form may be varied so as to give any additional information required owing to changes in the boundaries of the municipality or other like causes, and columns may be omitted which are inapplicable to a city or town. 4 Edw. VII. c. 23, s. 22 (4-6). Variations of roll in cities and towns.

23. The provisions of clause (i) of subsection 1 of section 22 shall not apply to the Townships of York, Scarborough, and Etobicoke, in the County of York, but the assessor shall assess in the manner provided by subsection 5 of section 37, the unoccupied land of non-residents who have not given notice to the clerk under subsection 6 of section 37. 6 Edw. VII. c. 36, s. 9. Special provision as to Townships of York, Scarborough and Etobicoke.

24.—(1) Notwithstanding anything in this Act, in a municipality composed of more than one township the assessor when he finds it difficult for any reason to comply with the provisions of this Act requiring a separate assessment of each lot or subdivision thereof, may assess the land of any person *en bloc* and for a lump sum or at so much per acre, without placing a separate valuation upon each lot or subdivision thereof, and without distributing the assessment in any way or entering any other details in the assessment roll or observ- Assessment of lands in block.

ing any of the formalities in relation to the assessment roll, prescribed by this Act.

Entering
tenant
on roll.

(2) Where any part of such land is to the knowledge of the assessor occupied by any person as tenant he shall enter the name of such person on the roll and make a separate assessment of the land so occupied, but failure to enter such tenant on the roll or to assess the lands occupied by him shall not render invalid any assessment *en bloc* and for a lump sum or at so much per acre as provided by subsection 1. 10 Edw. VII. c. 88, s. 40; 1 Geo. V. c. 59, s. 3.

Interpre-
tation.

25.—(1) In this section—

- (a) "Farm" shall mean not less than twenty acres of land in the actual occupation of the owner of it;
- (b) "Father" shall include stepfather;
- (c) "Mother" shall include stepmother;
- (d) "Owner" shall mean a person who is owner in his or her own right, or a person whose wife is owner in her own right, of an estate for life or any greater estate legal or equitable, or of a leasehold estate the term of which is not less than five years, except where the person is a widow and in that case "owner" shall mean "owner in her own right" of such an estate;
- (e) "Son," "sons," "farmer's son" and "farmers' sons" shall mean son or sons, stepson or stepsons of the full age of twenty-one years not otherwise entitled to be entered on the voters' list.

Farmers'
sons.

(2) Subject to the provisions of the following subsections, where a father or mother is the owner of a farm, his or her sons who have resided on the farm for the twelve months next preceding and are residing thereon at the date fixed for beginning to make the assessment roll shall have the same right to be entered on the roll as if they were jointly assessed for the farm with the father or mother, but they shall be entered on the roll as farmers' sons.

When son
not entitled
to be
entered.

(3) Where the amount at which the farm is assessed is insufficient, if equally divided between a father or mother and son, and they were jointly assessed for it, to qualify both to vote at a municipal election, the son shall not be entitled to be entered on the roll in respect of the farm.

When
assessment
insufficient
to qualify
all sons.

(4) If the father is living and there are more sons than one resident as provided in subsection 1, and the farm is not assessed for an amount sufficient, if equally divided between them, to qualify the father and all such sons to vote at a municipal election, so many of the sons in the order of their seniority, beginning with the eldest, as the amount at which

the farm is assessed, if equally divided between them and the father would be sufficient to qualify, shall be entitled to be entered on the roll as farmers' sons.

(5) If the father is dead and the mother is a widow and the farm is not assessed for an amount sufficient, if equally divided between them to qualify all of them to vote at a municipal election, so many of the sons, in the order mentioned in subsection 4, as the amount at which the farm is assessed, if equally divided between the mother and them, would be sufficient to qualify, shall be entitled to be entered on the roll as farmers' sons.

(6) Occasional or temporary absence from the farm for a time or times not exceeding in the whole six of the twelve months shall not disentitle a farmer's son to be entered on the roll. 3-4 Geo. V. c. 46, s. 7.

Manhood Suffrage Voters.

26.—(1) In municipalities in which *The Manhood Suffrage Registration Act* is not in force the assessor shall enter on the assessment roll, as qualified to be a voter under *The Ontario Election Act* the name of every male person of the full age of twenty-one years not disqualified from voting at elections for the Assembly, and a subject of His Majesty by birth or naturalization, who delivers or causes to be delivered to the assessor, an affidavit, Form 3, signed by such person and made before the assessor or before any person authorized by law to administer an oath. 4 Edw. VII. c. 23, s. 24 (1); 10 Edw. VII. c. 88, s. 9 (1).

Note.—As to qualification, see The Ontario Election Act, Rev. Stat. c. 8, s. 16.

(2) A person shall be deemed to be resident in the municipality for the purposes of subsection 1 notwithstanding

(a) Occasional or temporary absence; or,

(b) Absence as a member of a permanent militia corps, enlisted for continuous service, or on service as a member of the active militia; or,

(c) Absence as a student in attendance at an institution of learning in the Dominion of Canada. 10 Edw. VII. c. 88, s. 9 (2).

(3) The assessor shall also make reasonable inquiries in order to ascertain what persons resident in the municipality, or in the section of the municipality in respect of which the assessor is acting, are entitled to be placed on the roll as qualified to be voters under *The Ontario Election Act*, and shall place such persons on the roll as qualified to be voters without the affidavit mentioned in subsection 1. 4 Edw. VII. c. 23, s. 24 (3).

Students.

27.—(1) No person shall be entitled to be entered on the roll as qualified to vote under *The Ontario Election Act* in respect of residence in a municipality in which he is in attendance as a student at an institution of learning, if he has a place of residence in another municipality, and is entered or is entitled to be entered or could have been entered on the assessment roll thereof. 10 Edw. VII. c. 88, s. 10 (1).

Other persons.

(2) No person shall be entitled to be entered on the roll as qualified to vote under *The Ontario Election Act*, who is a prisoner undergoing punishment for a criminal offence in a gaol or prison; or is a patient in a lunatic asylum; or is maintained, in whole or in part, as an inmate receiving charitable support or care in a municipal house of refuge or house of industry. 4 Edw. VII. c. 23, s. 25 (2); 10 Edw. VII. c. 88, s. 10 (2).

Persons entitled to make complaints.

(3) Any person whose name is entered on, or who is entitled to have his name entered on the roll as qualified to vote under *The Ontario Election Act* shall have the right to complain to the Court of Revision to have his own name, or the name of any other person corrected in, entered on, or removed from the roll, and the proceedings thereon, including the right of appeal from the Court of Revision, shall be the same as in the case of an appeal in respect of an assessment. 10 Edw. VII. c. 88, s. 10 (3).

Names of certain persons not to be entered. Rev. Stat. c. 7.

28. No assessor for any city or town to which *The Manhood Suffrage Registration Act* applies, shall enter upon the assessment roll the name of any person who is not liable to assessment for taxes, and the letters "M.F." shall not be placed opposite the name of any person on the roll of any such city or town, unless he is qualified to vote at municipal elections in such city or town, as well as at elections for the Assembly. 10 Edw. VII. c. 88, s. 11.

Entry of School Supporters on Roll.

Assessor to be guided by index book, Rev. Stat. c. 270.

29. Where the index book required by section 62 of *The Separate Schools Act* is prepared, the assessor shall be guided thereby in ascertaining who have given the notices which are by law necessary in order to entitle supporters of Roman Catholic separate schools to exemption from the public school tax. 4 Edw. VII. c. 23, s. 26.

Evidence on which assessor to enter persons as separate school supporters.

30. The assessor, where the entry in the index book mentioned in section 29 does not show a ratepayer to be a supporter of separate schools, shall accept the statement of the ratepayer, or a statement made on his behalf and by his authority, and not otherwise, that he is a Roman Catholic, as sufficient *prima facie* evidence for placing such person in the proper column of the assessment roll for separate school supporters, or if the assessor knows personally any ratepayer to be a Roman Catholic this shall also be sufficient for

placing him in such last mentioned column. 4 Edw. VII. c. 23, s. 27; 3-4 Geo. V. c. 46, s. 8, *part*.

31. The Court of Revision shall hear and determine all complaints with regard to persons alleged to be wrongfully placed upon or omitted from the roll as Roman Catholic Separate School supporters, and any person so complaining or any ratepayer may give notice in writing to the clerk of the municipality of such complaint, and the provisions of this Act as to giving notice of complaints against the assessment roll and proceedings for the trial thereof shall apply to complaints under this section. 3-4 Geo. V. c. 46, s. 8, *part*.

Entry of
Roman
Catholic
separate
school
supporters.

32.—(1) In the case of a municipality in which there are supporters of a Roman Catholic separate school therein, or contiguous thereto, there shall be printed in conspicuous characters, or written across or on the assessor's notice to every ratepayer provided for by section 49 and set out as Form 6, in addition to the proper entry heretofore required to be made in the column respecting the school tax, the following words: "*You are assessed as a Separate School supporter,*" or "*You are assessed as a Public School supporter,*" as the case may be; or these words may be added to the notice to the ratepayer set forth in the said Form.

Notice to be
given of
assessment
as public or
separate
school
supporter.

(2) Where a ratepayer, who was in the next preceding year assessed as a public school supporter, is being assessed as a separate school supporter, or where a ratepayer, who was in the next preceding year assessed as a separate school supporter, is being assessed as a public school supporter, it shall be the duty of the assessor to give, in addition to all other notices, a written or printed notice to such ratepayer that such change is being made. 4 Edw. VII. c. 23, s. 28.

Notice to be
given of
change in
assessment
as public or
separate
school sup-
porter.

School Census.

33.—(1) The assessors of every municipality shall enter in a book, Form 4, to be provided by the clerk of the municipality, the name, age, and residence of every child between the ages of 8 and 14 years resident in the municipality, the name and residence of such child's parent or guardian, with an indication as to whether such parent or guardian is a public school or separate school supporter, and shall return the said book to the clerk of the municipality with the assessment roll for the use of the truant officer and others.

School census.

(2) It shall be the duty of the clerk of the municipality to send to the office of the Minister of Education as soon as he has received the said book, a statement showing the aggregate number of children between the ages of 8 and 14 entered by the assessors in the said book. 8 Edw. VII. c. 50, s. 5.

Statement
by clerk
to Minister.

Census of children between five and twenty-one.

34.—(1) The assessors of every municipality shall make an annual census of all the children in the municipality between the ages of five and sixteen years and between the ages of five and twenty-one years.

Report to Inspector, etc.

(2) The clerk shall report such census to the public school inspector and to the secretary of the board of education or trustees.

(3) In the case of townships the clerk shall report to the inspector of the division and to the secretary of each school section. 4 Edw. VII. c. 23, s. 30. (See Rev. Stat. c. 266, ss. 48 (3), 73 (d).)

Lists of Lands Patented, Located, etc.

County treasurer to furnish copies of lists to clerks of municipalities. Rev. Stat. c. 28.

35. The county treasurer shall from the list transmitted to him by the Minister of Lands, Forests and Mines, under section 24 of *The Public Lands Act*, furnish to the clerk of each municipality in the county a copy of the said lists, so far as regards lands in such municipality, and such clerk shall furnish the assessors respectively with a statement showing what lands in the said annual list are liable to assessment within such assessor's assessment district. 7 Edw. VII. c. 23, s. 31.

(Note.—See *The Public Lands Act*, Rev. Stat. c. 28, s. 24, requiring Minister of Lands, Forests and Mines to send list of lands patented, located, etc., to treasurers of counties and of local municipalities in unorganized territory.)

[See *The Registry Act*, Rev. Stat. c. 124, s. 100, requiring Registrars upon request of the clerk of a municipality or Assessment Commissioner to furnish lists of transfers of land.]

MODE OF ASSESSMENT OF LANDS.

Land where assessed.

36. Except as hereinafter provided for land shall be assessed in the municipality in which it lies, and in the case of cities and towns in the ward in which it lies. 4 Edw. VII. c. 23, s. 32.

Owner occupying Land.

Land against whom to be assessed.

37.—(1) Land occupied by the owner shall be assessed against him.

Resident Owner of unoccupied Land.

Unoccupied land of resident.

(2) Unoccupied land the owner of which is resident in the municipality, shall be assessed against him.

Resident Owner, Land occupied by Tenant.

(3) Land owned by a resident in the municipality and occupied by any person other than the owner shall be assessed against the owner and the tenant. Land of resident occupied by tenant.

Non-resident Owner, Land occupied by Tenant.

(4) Occupied land owned by a person who is not a resident in the municipality shall be assessed against the owner if known, and against the tenant. Occupied land owned by non-resident.

Non-resident Owner, Land unoccupied.

(5) In cities, towns and villages unoccupied land owned by non-residents shall be assessed in the same manner as the land of residents; and where the name of the owner cannot be ascertained, the assessor shall insert the word "non-resident" in the column in the assessment roll for the name of the owner opposite the description of the land. Unoccupied land of non-resident in cities, towns or villages.

(6) In townships unoccupied land shall be denominated "lands of non-residents" unless the owner thereof resides or has a place of business in the municipality where the land is situate, or gives a notice, Form 5, setting forth his full name, place of residence and post office address, to the clerk of the municipality, on or before the 20th day of April in any year that he owns such land, describing it, and requires his name to be entered in the assessment roll therefor; and the clerk of the municipality shall, on or before the 25th day of April in each year, make up and deliver to the assessor a list of the persons requiring their names to be entered on the roll and of the lands owned by them. Unoccupied land of non-resident in townships.

(7) The clerk of the municipality shall keep in a book a record of such notices, and they shall stand until revoked. Record of non-residents' notices.

(8) Where the name of the owner of unoccupied land has not been entered upon the assessment roll in respect thereof by the assessor, such owner or his agent shall be entitled, — Rights of appeal of non-resident not named in roll.

(a) To apply to the Court of Revision to have the same so entered whether the notice in subsection 6 has or has not been given, and the Court may order the name to be entered notwithstanding that such notice has not been given or has not been given by the time in the said subsection provided;

(b) Within the time allowed by law for other applications in that behalf, to apply to the Judge to have the name of the owner entered upon the assessment roll and the voters' lists, whether such notice has or has not been given; and the judge may direct that the same be so entered as provided in section 41 of *The Ontario Voters' Lists Act*, not-

withstanding that such notice has not been given or has not been given by the time in subsection 6 provided.

Several Owners of undivided shares, some non-resident.

Joint owners
—resident and
non-resident.

(9) Where land is owned by more persons than one, and any one of the owners is not resident in the municipality:—

(a) If the land is occupied by any person other than the owners, it shall be assessed against the tenant and against such of the owners as are known; and

(b) If occupied by any of the owners, or if unoccupied it shall be assessed against all the owners who are known.

Tenant of Non-Residents' Lands, when considered Owner.

Tenant when
to be deemed
owner.

(10) Where land is assessed against a tenant under subsection 4 or 9, the tenant, for the purpose of imposing and collecting taxes upon and from the land, shall be deemed to be the owner.

Married Woman Owner, whether resident or non-resident.

Married
woman—
when husband
to be assessed
as owner.

(11) Where a married woman, whether resident or non-resident in the municipality, is assessed as owner, the name of her husband shall also be entered in the roll as an owner, and where the property is assessed for a sum sufficient to entitle a sole owner, but insufficient to entitle two joint owners of the property to vote at municipal elections, the letter "O" shall be inserted in column 4 of the assessment roll after the name of the husband who shall be entitled to be entered on the voters' list as the owner of the property.

Trustees, Guardians, Executors, etc.

Land held
by trustees,
etc.

Proviso.

(12) Land held by a trustee, guardian, executor or administrator shall be assessed against him as owner or tenant thereof, as the case may require, in the same manner as if he did not hold the land in a representative capacity; but the fact that he is a trustee, guardian, executor or administrator shall, if known, be stated in column 5 of the roll. Provided, however, that such trustee, guardian or administrator shall only be personally liable when and to such extent as he has property as such trustee, guardian, executor, or administrator, available for payment of such taxes. 4 Edw. VII. c. 23, s. 33.

Land of Railway Companies, etc.

Land of
Railway Cos.,
etc.

38. The real estate of any transportation or transmission company shall be considered as land of a resident in the muni-

cipality although the company has not an office in the municipality. 4 Edw. VII. c. 23, s. 34.

Land in which the Crown has an interest.

39. The owner of any land in which the Crown has an interest, and the tenant of any such land (except a tenant occupying the same in an official capacity under the Crown) shall be assessed in respect of the land in the same way as if the interest of the Crown was held by any other person; and the interest of every person other than the Crown in such land shall be subject to the charge thereon given by section 94 and shall be liable to be sold under the provisions of this Act for arrears of taxes accrued against the land. 4 Edw. VII. c. 23, s. 35.

Assessment of land in which Crown has an interest.

VALUATION OF LANDS.

40.—(1) Subject to the provisions of this section, land shall be assessed at its actual value.

Assessment of land.

(2) In assessing land having any buildings thereon, the value of the land and buildings shall be ascertained separately, and shall be set down separately in columns 13 and 14 of the assessment roll and the assessment shall be the sum of such values. The value of the buildings shall be the amount by which the value of the land is thereby increased. 10 Edw. VII. c. 88, s. 13, *part*.

Buildings.

(3) To remove doubts it is hereby declared that the cost of a building is only one of the matters which should be considered in ascertaining the amount for which a building should be assessed, and if it is found that a building, either because of its condition as to repair or of its inappropriateness to the location in which it is found or because of any other circumstances affecting its value, increases the value of the land by less than the cost of the building, or the cost of replacing it, such less sum shall be the amount for which the building shall be assessed under subsection 2; the meaning of that subsection being that buildings shall be assessed for the amount of the difference between the selling value of the whole property and the selling value of the land if there were no buildings on it. 3-4 Geo. V. c. 46, s. 9.

Matters to be considered in assessing buildings.

(4) The buildings, plant and machinery in, on or under mineral land, and used mainly for obtaining minerals from the ground, or storing the same, and concentrators and sampling plant, and, subject to subsection 8, the minerals in, on or under such land, shall not be assessable.

Certain buildings and minerals not assessable.

(5) In no case shall mineral land be assessed at less than the value of other land in the neighbourhood used exclusively for agricultural purposes.

Minimum assessment of mineral lands.

Income from
mines.

(6) The income from a mine or mineral work shall be assessed by, and the tax leviable thereon shall be paid to the municipality in which such mine or mineral work is situate. Provided that the assessment on income from each oil or gas well operated at any time during the year shall be at least \$20.

Business
assessment.

(7) Every person occupying mineral land for the purpose of any business other than mining shall be liable to business assessment as provided by section 10.

Petroleum
mineral
rights.

(8) Where in any deed or conveyance of lands heretofore or hereafter made the petroleum mineral rights in such lands have been or shall be reserved to the grantor such mineral rights shall be assessed at their actual value.

Tax on
income from
mines.

Rev. Stat. c. 26.

(9) Notwithstanding anything in this section contained, no income tax shall be payable to any municipality upon a mine or mineral work liable to taxation under section 5 of *The Mining Tax Act*, in excess of one-half, in the case of the Town of Cobalt as at present constituted, and in excess of one-third, in the case of all other municipalities, of the tax payable in respect of annual profits from such mine or mineral work under the provisions of the said section and amendments thereto. 10 Edw. VII. c. 88, s. 13, *part*.

Assessment of
toll roads.

41. Plank, gravel, macadamized or other toll roads not owned by any municipal corporation shall be assessed as real estate in the municipality in which the same are situate; and in making the assessment the assessor shall take into consideration the value of

- (a) The land occupied by the road;
- (b) The materials employed in the superstructure;
- (c) Toll houses, buildings and gates on the road; and
- (d) Quarries and gravel pits and roads to and from such places, and used in connection therewith;

but this section shall not include bridges 100 feet in length or over, and the approaches thereto, which are on or along such toll roads and which are used therewith. 4 Edw. VII. c. 23, s. 37.

Toll roads not
owned by
municipalities.

42. Every toll road owned by any person or corporation other than a municipal corporation, upon which any toll is established, whether leased to a tenant or not, shall be assessed in the municipality in which the same is situate, and where the road extends or runs into or through more municipalities than one, each municipality shall assess that part thereof which lies within its limits, and according to the value of that part, whether a toll gate or bar is or is not upon the road in the municipality. 4 Edw. VII. c. 23, s. 38.

43. Where land is not held for the purpose of sale, but is *bona fide* enclosed and used in connection with a residence or building as a paddock, park, lawn, garden or pleasure ground, it shall be assessed therewith, at a valuation which, at six per centum, would yield a sum equal to the annual rental which, in the judgment of the assessors, it is fairly and reasonably worth for the purposes for which it is used, reference being always had to its position and local advantages, unless by by-law the council requires the same to be assessed like other ground. 4 Edw. VII. c. 23, s. 41.

44.—(1) The property, by paragraph 5 of clause (h) of section 2, declared to be "land" which is owned by companies or persons supplying water, heat, light and power to municipalities and the inhabitants thereof, and companies and persons operating tramways, street railways and electric railways, and companies or persons transmitting oil or gas by pipe line, shall, in a municipality divided into wards, be assessed in the ward in which the head office of such company or person is situate, if such head office is situated in such municipality, but if the head office of such company or person is not in such municipality then the assessment may be in any ward thereof. 4 Edw. VII. c. 23, s. 42 (1); 6 Edw. VII. c. 36, s. 12, *part*.

(2) Where the property of any such company or person extends through two or more municipalities, the portion thereof in each municipality shall be separately assessed therein at its value as an integral part of the whole property. 6 Edw. VII. c. 36, s. 12, *part*.

(3) In assessing such property whether situate or not situate upon a highway, street, road, lane or other public place the same shall when and so long as in actual use be assessed at its actual cash value as the same would be appraised upon a sale to another company or person possessing similar powers, rights and franchises in and from the municipality and subject to similar conditions and burdens, regard being had to all circumstances adversely affecting the value of such property including the non-user of any of the same. 4 Edw. VII. c. 23, s. 42 (2).

45. Except as provided by subsection 11 of section 14 where any structure, pipe, pole, wire, or other property is erected or placed upon, in, over, under, or affixed to any highway forming the boundary line between two local municipalities, or so that such structure, pipe, hole, wire or property is in some places on one side and in other places on the other side of the boundary line, or is on a highway forming the boundary line between two local municipalities although it may deviate so as in some places to be wholly or partly within either of them, the same shall be assessed in each municipality for one-half of the whole assessable value in both municipalities taken together. 10 Edw. VII. c. 88, s. 7 (2).

International and Intermunicipal Bridges.

Bridges over
international
boundary line.

46.—(1) In the case of any bridge liable to assessment which belongs to or is in the possession of any person or incorporated company, and which crosses any river forming the boundary between the Province of Ontario and any other country or province, the part of such structure within Ontario shall be valued as an integral part of the whole and on the basis of the valuation of the whole, and at its actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises and subject to similar conditions and burdens but subject to the provisions and basis of assessment set forth in subsection 3 of section 44.

Bridges
between
municipalities.

(2) Any bridge belonging to or in possession of any person or company between two municipalities in the Province shall be valued as an integral part of the whole and on the basis of the valuation of the whole. 4 Edw. VII. c. 23, s. 43.

Railways.

Railway com-
panies to fur-
nish certain
statements
to clerks of
municipalities.

47.—(1) Every steam railway company shall annually transmit on or before the first day of February to the clerk of every municipality in which any part of the roadway or other real property of the company is situate, a statement showing:—

- (a) The quantity of land occupied by the roadway, and the actual value thereof (according to the average value of land in the locality) as rated on the assessment roll of the previous year;
- (b) The vacant land not in actual use by the company and the value thereof.
- (c) The quantity of land occupied by the railway and being part of the highway, street, road or other public land (but not being a highway, street or road which is merely crossed by the line of railway) and the assessable value as hereinafter mentioned of all the property belonging to or used by the company upon, in, over, under, or affixed to the same.
- (d) The real property, other than aforesaid, in actual use and occupation by the company, and its assessable value as hereinafter mentioned;

and the clerk of the municipality shall communicate such statement to the assessor. 4 Edw. VII. c. 23, s. 44 (1).

Assessment
of railway
land.

(2) The assessor shall assess the land and property aforesaid as follows:

- (a) The roadway or right of way at the actual value thereof according to the average value of land in the locality; but not including the structures, substructures and superstructures, rails, ties, poles and other property thereon;
- (b) The said vacant land, at its value as other vacant lands are assessed under this Act;
- (c) The structures, substructures, superstructures, rails, ties, poles and other property belonging to or used by the company (not including rolling stock and not including tunnels or bridges in, over, under, or forming part of any highway), upon, in, over, under or affixed to any highway, street or road (not being a highway, street or road merely crossed by the line of railway) at their actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises, regard being had to all circumstances adversely affecting the value including the non-user of such property; and
- (d) The real property not designated in clauses (a), (b) and (c) of this subsection in actual use and occupation by the company, at its actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights and franchises. 4 Edw. VII. c. 23, s. 44 (2).

(3) Notwithstanding anything in this Act contained, the structures, substructures, superstructures, rails, ties, poles, wires and other property on railway lands and used exclusively for railway purposes or incidental thereto (except stations, freight sheds, offices, warehouses, elevators, hotels, roundhouses and machine, repair and other shops) shall not be assessed. 6 Edw. VII. c. 36, s. 13.

(4) The assessor shall deliver at, or transmit by post to, any station or office of the company a notice, addressed to the company, of the total amount at which he has assessed the said land and property of the company in his municipality or ward showing the amount for each description of property mentioned in the above statement of the company; and such statement and notice respectively shall be held to be the assessment return and notice of assessment required by sections 18 and 49.

(5) A railway company assessed under this section shall be exempt from assessment in any other manner for municipal purposes except for local improvements. 4 Edw. VII. c. 23, s. 44 (3-4).

48. When an assessment has been made under the provisions of section 47 the amount thereof in the roll as finally revised

and corrected for that year shall be the amount for which the company shall be assessed for the next following four years in respect of the land and property included in such assessment; but at any time before the return of the assessment roll in any year the said amount may be reduced by deducting therefrom the value of any land or property included in such assessment which has ceased to belong to the company, and a further assessment may be made of any additional land or property of the company not included in such assessment. 4 Edw. VII. c. 23, s. 45.

NOTICE OF ASSESSMENT.

Notice of
assessment.

49.—(1) The assessor, or his assistant, before the completion of the assessment roll for the municipality, or ward, as the case may be, shall, in manner hereinafter provided, leave for or transmit to every person named in the roll, a notice, Form 6, of the sum or sums for which such person has been assessed, and the other particulars mentioned in such Form, and shall enter in the roll opposite the name of the person, the date of delivering or transmitting such notice, and the entry shall be *prima facie* evidence of such delivery or transmission.

Name of
clerk on
assessment
notice.

(2) Such notice shall contain, written or printed on some part thereof, the name and post office address of the clerk of the municipality or of the assessment commissioner, if any. 10 Edw. VII. c. 88, s. 16.

Leaving at
residence.

(3) If the person resides or has a place of business in the municipality, the notice shall be left at his residence or place of business.

Non-resident.

(4) If the person is not resident in the municipality, the notice shall be transmitted by post to his address, if known.

Leaving on
assessed
premises.

(5) If the address of the person is not known the notice shall be left with some grown-up person on the assessed premises, if there is any such person there resident.

Service of,
in cities.

(6) In any city the notice may be served upon a person resident or having a place of business within the municipality, either personally or by leaving such notice in the office or place of business of such person in the municipality; and where such office or place of business is situate in any public building, or in any building the apartments of which are occupied by different persons as places of business, the notice may be left with the person assessed, or in his absence, with some person employed in the particular office in which the person named in the notice is engaged, or, if there be no such person, the notice may be left in the particular office in which the person assessed is employed or engaged.

Where address
sent to clerk,
etc.

(7) In case any person assessed furnishes the assessment commissioner, or if none, the clerk, with a notice in writing giving an address to which the notice of assessment may be transmitted to him, and requesting that the same be trans-

mitted to such address by registered letter, the notice of assessment shall be so transmitted; and any notice so given to the assessment commissioner or clerk, as the case may be, shall stand until revoked in writing.

(8) Nothing in the preceding subsections contained shall be deemed to require the assessor to give, leave or transmit any notice to any person entered upon the assessment roll as a farmer's son. ^{No notice to farmer's son.} 4 Edw. VII. c. 23, s. 46.

Time for Completion of Roll.

50.—(1) Subject to the provisions of sections 56 to 60, every assessor shall begin to make his roll in each year not later than the 15th day of February, and shall complete the same on or before the 30th day of April, and, in municipalities not having an assessment commissioner, the assessor shall attach thereto his affidavit or solemn affirmation, and, in municipalities having an assessment commissioner, the assessment commissioner, or his assistant, as the case may require, shall attach thereto his affidavit or solemn affirmation. ^{When assessment roll to be completed.}

(2) The affidavit or affirmation, Form 7, may be made before the clerk of the municipality or a Justice of the Peace having jurisdiction in the municipality, or a commissioner for taking affidavits, or a notary public for the Province. ^{Form of affidavit.}

(3) Subject to the provisions of sections 56 to 60, every assessor shall, on or before the thirtieth day of April, deliver to the clerk of the municipality the assessment roll, completed and added up, with the affidavits attached; and the clerk shall immediately upon the receipt of the roll, file it in his office, and it shall, at all convenient office hours, be open to the inspection of all persons requiring to inspect the same. 4 Edw. VII. c. 23, s. 47. ^{Assessment roll to be delivered to clerk of the municipality.}

(4) The omission to attach to the assessment roll the affidavit or solemn affirmation required by subsection 1 shall not invalidate the roll. 3-4 Geo. V. c. 46, s. 12. ^{Omission to attach affidavit.}

Correction of Errors.

51. Notwithstanding the delivery or transmission of any notice provided for by section 49, the assessor, at any time before the time fixed for the return of the assessment roll may correct any error in any assessment and alter the roll accordingly; and he shall do so upon notice being given to him of any error; and, upon so correcting or altering any assessment he shall deliver or transmit to the person assessed an amended notice. 4 Edw. VII. c. 23, s. 48. ^{Correction of errors in roll by assessor.}

52. In cities where the assessment is made by wards, in case any person removes from a ward before having been assessed therein into a ward for which the assessment roll has ^{Amendment of roll for ward in cities after completion of.}

been completed, the assessor for the last mentioned ward may at any time before the 30th day of September amend the roll by entering therein the assessment of such person, and shall forthwith give to him the notice of assessment provided for by section 49; and the person so assessed shall be entitled to appeal to the County Judge from the assessment within ten days from the time of giving such notice. 4 Edw. VII. c. 23, s. 49.

Clerk to
report errors
or omissions
in roll to
Court of
Revision.

53. It shall be the duty of the clerk to report to the Court of Revision the facts and particulars as to any errors or omissions in the assessment roll of which he may from time to time become aware; and the Court of Revision shall thereupon take such steps as the Court shall deem advisable and necessary to cause such corrections to be made in the roll, and shall give such notice to persons interested as such corrections may render necessary. 4 Edw. VII. c. 23, s. 50.

Correction of
omission to
assess land.

54. If at any time it appears to any treasurer or other officer of the municipality that land liable to assessment has not been assessed for the current year or for either or both of the next two preceding years, he shall report the same to the clerk of the municipality, or if the omission to assess comes to the knowledge of the clerk of the municipality in any other manner, he shall enter such land on the next collector's roll, or roll for non-residents, as the case may require, as well for the arrears of the preceding year or years, if any, as for the tax of the current year; and the valuation of the land shall be the average of the three previous years, if assessed for the said three years, but if not so assessed, the clerk shall require the assessor for the current year to value the land, and it shall be the duty of the assessor to do so when required, and to certify the valuation, in writing, to the clerk; and the owner of the land shall have the right to appeal, as provided in section 112. 4 Edw. VII. c. 23, s. 51.

Inquiries to prevent creation of false Votes.

Assessor to
make in-
quiries so as
to prevent
creation of
false votes.

55.—(1) To prevent the creation of false votes, where a person claims to be assessed, or to be entered or named in any assessment roll, or claims that another person should be assessed, or entered or named in such assessment roll, as entitled to be a voter, and the assessor has reason to suspect that the person so claiming, or for whom the claim is made, has not a just right to be so assessed or to be entered or named in the roll as so entitled to be a voter, it shall be the duty of the assessor to make reasonable inquiries before assessing, entering or naming any such person in the assessment roll.

Persons
entitled to be
assessed, etc.,
to be entered
on roll with-
out request.

(2) Any person entitled to be assessed or to have his name inserted or entered in the assessment roll of a municipality, shall be so assessed, or shall have his name so inserted or entered, without any request in that behalf; and a person

entitled to have his name so inserted or entered in the assessment roll, or in the list of voters based thereon, or to be a voter in the municipality, shall, in order to have the name of any other person entered or inserted in the assessment roll or list of voters, as the case may be, have for all purposes the same right to apply, complain or appeal to a Court or a Judge in that behalf as such other person would or can have personally, unless such other person actually dissents therefrom. 4 Edw. VII. c. 23, s. 52 (1-2).

(3) Any person who wilfully and improperly inserts or procures or causes the insertion of the name of a person in the assessment roll, or assesses or procures or causes the assessment of a person at too high an amount, with intent in any such case to give to a person not entitled thereto either the right or an apparent right to be a voter, or who wilfully inserts, or procures or causes the insertion of any fictitious name in the assessment roll, or who wilfully and improperly omits, or procures or causes the omission of the name of a person from the assessment roll, or assesses or procures or causes the assessment of a person at too low an amount, with intent in any such case to deprive any person of his right to be a voter, shall incur a penalty not exceeding \$200, or shall be liable, in the discretion of the convicting justice, to imprisonment for any period not exceeding six months, or to both such penalty and imprisonment. 10 Edw. VII. c. 88, s. 28.

(4) The word "Voter" in this section shall have the meaning given thereto by *The Ontario Voters' Lists Act*. 4 Edw. VII. c. 23, s. 52 (4).

Special provisions (applicable in Cities, Towns and Villages).

56.—(1) In cities, towns and villages, the council, instead of being bound by the periods above mentioned for taking the assessment, and by the periods named for the revision of the rolls by the Court of Revision, and by the County Judge, may pass by-laws for regulating the above periods, as follows, that is to say:—For taking the assessment between the 1st day of July and the 30th day of September, the rolls being returnable in such case to the city, town or village clerk on the 1st day of October; and in such case the time for closing the Court of Revision shall be the 15th day of November, and for final return by the Judge of the County Court the 15th day of December; and the assessment so made and concluded may be adopted by the council of the following year as the assessment on which the rate of taxation for said following year shall be fixed and levied; and the taxes for such following year shall in such case be fixed and levied upon such assessment; but in cities and towns the assessment may be made between the 1st day of May and the 30th day of September. 4 Edw. VII. c. 23, s. 53 (1); 1 Geo. V. c. 59, s. 4.

Delay in completing assessment, effect of.

(2) Where there has, from any cause, been delay in so completing the final revision of the said roll beyond the said 15th day of December, the council may notwithstanding adopt the assessment when finally revised, as the assessment on which the rate of taxation for the said following year shall be levied.

Adoption of assessment for current year.

(3) In case the council deem it advisable to adopt the provisions of this section in any year for which there has been an assessment made under the previous sections of this Act, the council instead of making a second assessment in the same year may pass a by-law adopting the assessment roll previously made and revised in such year, and such assessment roll shall be subject to revision in the manner provided by subsection 1, and shall have the same effect as an assessment made under subsection 1. 4 Edw. VII. c. 23, s. 53 (2-3).

Taking assessment by wards or sub-divisions in cities.

57.—(1) The council of any city instead of proceeding in the manner set forth in section 56, may by by-law, from time to time, provide for making the assessment at any time prior to the 30th day of September, and may fix prior and separate dates for the return of the roll of each ward, or each subdivision of a ward, as defined in the by-law.

By-law to fix time for hearing appeals to court of revision.

(2) Any such by-law shall also provide for holding a Court of Revision for hearing appeals from the assessments in each ward or subdivision, in the manner provided by this Act, upon the return of the assessment roll for such ward or subdivision.

Appeals to County Judge.

(3) The County Judge may sit from time to time throughout the year for the purpose of hearing appeals from the Court of Revision upon the determination of appeals made to the Court with respect to each roll; and the time for appeal to the Court of Revision shall be within ten days after the last day fixed for the return of the roll for each ward or subdivision of a ward; and the time for appealing from the Court of Revision to the County Judge shall be within three days after the decision of the Court of Revision is given.

When revision by Judge to take place and be completed.

(4) The Judge shall arrange to hear all such appeals from time to time throughout the year, within ten days after the sitting of the Court of Revision for each ward or subdivision of a ward, and shall complete his revision of the last of such rolls for the city by the 20th day of October, in each year.

Adoption of assessment for following year.

(5) The assessment so made and completed may be adopted by the council of the following year as the assessment on which the rate of taxation for such following year shall be fixed and levied, and the taxes for such following year shall in such case be fixed and levied upon the said assessment.

When rolls not completed by 20th October.

(6) If from any cause the final revision of the rolls for all the wards or subdivisions in the city has not been completed by the 20th day of October, the council may adopt the assess-

ment; when finally revised, as the assessment upon which the taxes for the following year shall be levied.

(7) In any city in which any by-law has been passed under this section, the provisions of sections 69 and 72, so far as the same relate to the time for appealing and giving notice thereof, shall not apply, but the clerk shall give notice to every person appealing, or whose assessment or non-assessment is appealed against, at least five days before the sitting of the Court of Revision, such notice to be served upon such person, or left at his residence or place of business, or upon the premises concerning which such appeal arises, or addressed to such person through the post office, but no advertisement of the Court shall be necessary; and in case of appeals to the County Judge, five days' notice of the day fixed by the County Judge for hearing such appeals shall be served in the manner provided in the case of appeals to the Court of Revision.

(8) The provisions of sections 69 and 72, so far as the same are not inconsistent with the provisions of this section, shall apply to appeals made hereunder. 4 Edw. VII. c. 23, s. 54.

58. Where an addition of any part of the localities adjacent to any city or town has been made to said city or town, in any year subsequent to the 30th day of September, under the provisions of section 21 of *The Municipal Act*, the council of said city or town may pass a by-law in the succeeding year, adopting the assessment of the said addition as last revised while a part of the adjoining municipality as the basis of the assessment for said part for that year, although the assessment of the remainder of the city or town has been made, and the rate of taxation has been levied in accordance with the provisions of sections 56 and 57; and the levying of a proportionate share of the taxation upon said addition shall not invalidate either the assessment of the remainder or the tax levied thereon; and the qualification of municipal electors in said addition shall, for the said succeeding year, be the same as that required in the municipality from which the part has been taken. 4 Edw. VII. c. 23, s. 55.

59. Notwithstanding anything in this Act contained, the council of a township may pass a by-law for taking the assessment between the 30th day of September and the 30th day of April in the following year, and the assessment so made shall be adopted by the council of the last mentioned year. 8 Edw. VII. c. 50, s. 8.

Special Provisions applicable to Counties.

60.—(1) County councils may pass by-laws for taking the assessment in towns, townships and villages between the 1st day of February and the 1st day of July.

Time for
closing Court
of Revision,
etc.

(2) If such by-law extends the time for making and completing the assessment rolls beyond the 1st day of May, then the time for closing the Court of Revision shall be six weeks from the day to which such time is extended, and the time for final return in case of an appeal shall be twelve weeks from that day. 4 Edw. VII. c. 23, s. 56.

COURT OF REVISION.

Court of
Revision in
cities, how
constituted.

Rev. Stat.
c. 199.

61.—(1) In every city the Court of Revision shall consist of three members, one of whom shall be appointed by the city council, and one by the Mayor, and the third shall be the Official Arbitrator appointed for the city under *The Municipal Arbitrations Act*, and in the case of cities where there is no Official Arbitrator, or where such Official Arbitrator is a Judge or Junior Judge of the county in which the city is situated, the Sheriff of the county shall be the third member. 4 Edw. VII. c. 23, s. 57 (1).

Payment of
members of
City Court
of Revision.

(2) Each member of the Court of Revision for a city shall be paid such sum for his services as the council may by by-law or resolution provide. 7 Edw. VII. c. 41, s. 7.

Certain per-
sons disqual-
ified.

(3) No member of the city council, and no officer or employee of the city corporation shall be a member of the Court of Revision.

Appointment
of members.

(4) The appointed members of such Court of Revision shall hold office until their successors are appointed, but the mayor or council may each or either of them, after the organization of a new council and before the 1st day of March in any year, appoint a member of such Court of Revision in place of any member appointed by the mayor or council in a preceding year.

Quorum.

(5) Two members of any Court of Revision under this section shall form a quorum, and upon the death or resignation of any member of any such Court a successor shall immediately thereafter be appointed by the authority which appointed the member so dying or resigning.

Filling
vacancies.

(6) In case of a vacancy in the office of Sheriff, or if the Sheriff is unable to act from any cause in cities where there is no Official Arbitrator, the Registrar of Deeds for the county or registry division of the county whose office is in such city, shall act as the third member of the court during such vacancy or inability of the Sheriff to act. 4 Edw. VII. c. 23, s. 57 (3-5).

62.—(1) In municipalities other than cities, if the council of the municipality consists of not more than five members, such five members shall be the Court of Revision for the municipality. Where council consists of five members only.

(2) If the council consists of more than five members, it shall appoint five of its members to be the Court of Revision. Where of more than five.

(3) Every member of the Court of Revision before entering upon his duties, shall take and subscribe, before the clerk of the municipality, the following oath (or affirmation in cases where, by law, affirmation is allowed):— Oath of members of Court of Revision.

"I, _____, do solemnly swear (or affirm) that I will, to the best of my judgment and ability, and without fear, favour or partiality, honestly decide the appeals of the Court of Revision, which may be brought before me for trial as a member of said Court."

4 Edw. VII. c. 23, s. 58.

63. Three members of the Court of Revision shall be a quorum and a majority of a quorum may decide all questions before the court; but no member shall act when an appeal is being heard respecting any property in which he is directly or indirectly interested. 4 Edw. VII. c. 23, s. 59.

64. The clerk of the municipality shall be the clerk of the Court, and shall keep in a book a record of the proceedings and decisions of the Court, which shall be certified by the airman of the Court. Who to be clerk. Record of decision. 4 Edw. VII. c. 23, s. 60.

65. The Court may meet and adjourn, from time to time, at pleasure, or may be summoned to meet at any time by the head of the municipality; but the first sitting shall not be held until after the expiration of at least ten days from the expiration of the time within which notice of appeals may be given to the clerk of the municipality. Meetings of Court. 4 Edw. VII. c. 23, s. 61.

66. At the time or times appointed, the Court shall meet and try all complaints in regard to persons wrongly placed upon or omitted from the roll, or assessed at too high or too low a sum. Court to try all complaints, etc. 4 Edw. VII. c. 23, s. 62.

67. The Court, or some member thereof, may administer an oath to any party or witness, before his evidence is taken, and may issue a summons to any witness to attend such Court. May administer oaths, etc. 4 Edw. VII. c. 23, s. 63.

68. Any person summoned to attend the Court of Revision or before a County Judge under the provisions of this Act as a witness who fails, without good and sufficient reason, to Penalty for failure to attend as witness.

attend, having first been tendered compensation for his time at the rate of 75 cents per day and his proper travelling expenses if he resides more than three miles from the place of trial, or who having attended, or being present in court, refuses to be sworn, if required to give evidence, shall incur a penalty not exceeding \$25. 10 Edw. VII. c. 88, s. 29.

Proceedings for the Trial of Complaints.

Notice of complaint by person aggrieved.

69.—(1) Any person complaining of an error or omission in regard to himself, as having been wrongly inserted in or omitted from the roll, or as having been undercharged or overcharged by the assessor in the roll may personally, or by his agent give notice in writing to the clerk of the municipality, (or to the assessment commissioner, if any), that he considers himself aggrieved for any or all of the causes aforesaid, and shall give a name and address where notices can be served by the clerk as hereinafter provided.

Time within which notices of appeal to the Court are to be given.

(2) The notice shall be given to the clerk, or to the assessment commissioner, if any, within fourteen days after the day upon which the roll is required by law to be returned, or within fourteen days after the return of the roll, in case the same is not returned within the time fixed for that purpose.

When elector thinks any person assessed at too low or too high a rate.

(3) If a municipal elector thinks that any person has been assessed too low or too high, or has been wrongly inserted in or omitted from the roll, he may, within the time limited by the preceding subsection, give notice in writing to the clerk of the municipality or to the assessment commissioner, if any, and the clerk shall give notice to such person and to the assessor, of the time when the matter will be tried by the Court of Revision; and the matter shall be decided in the same manner as complaints by a person assessed.

Clerk to give notice by posting up list.

(4) The clerk of the Court shall post up in some convenient and public place within the municipality or ward, a list of all complaints, on their own behalf, against the assessor's return, and of all complaints on account of the assessment of other persons stating the names of each, with a concise description of the matter complained against, together with an announcement of the time when the Court will be held to hear the complaints.

Alteration of roll only on complaint.

(5) No alteration shall be made in the roll unless under a complaint formally made according to the above provisions.

Order of hearing appeals.

(6) The clerk of the Court shall enter the appeals on the list, in the alphabetical order of the names of the appellants, and the Court shall proceed with the appeals in the order, as nearly as may be, in which they are so entered, but may grant an adjournment or postponement of any appeal.

Postponement.

(7) Such list may be in the following form:

Form of list
of appeals.

Appeals to be heard at the Court of Revision to be held at
on the day of , 19 .

Appellant.	Respecting whom.	Matter complained of.
A.B.	Self	Overcharged on land.
C.D.	E.F.	Name omitted.
G.H.	J.K.	Not bona fide owner or tenant.
L.M.	Self	Income Overcharged.
&c.	&c.	

(8) The clerk shall also advertise in some newspaper published in the municipality, or, if there be no such paper, then in some newspaper published in the nearest municipality in which one is published, the time at which the Court will hold its first sitting for the year, and the advertisement shall be published at least ten days before the time of such first sittings.

Clerk to
advertise
sittings of
Court,

(9) The clerk shall also cause to be left at the residence or office of each assessor, a list of all the complaints respecting his roll.

to leave a
list with
assessor,

(10) The clerk shall prepare a notice according to the form following for each person with respect to whom a complaint has been made:—

and prepare
notice to
parties con-
cerned.

Take notice that the Court of Revision will sit at on the
day of in the matter of the following appeal.

Appellant

Subject—(That you are not the bona fide owner or tenant (or are overcharged in assessment on (as the case may be)

(Signed) X.Y.,
Clerk.

To J.K. or J.S.

and he shall also notify each person who has made a complaint of the date of the sittings of the Court.

(11) If the person resides or has a place of business in the municipality, the clerk shall cause the notice to be left at the person's residence or place of business.

Service to be
at residence
or place of
business in
municipality.

(12) If the person is not known, then the notice shall be left with some grown-up person on the assessed premises, if there is any such person there resident; or if the person is not resident in the municipality, then the notice shall be addressed to such person through the post office.

How
absentees
served.

(13) Every notice hereby required whether by publication, advertisement, letter, or otherwise shall be completed at least six days before the sitting of the Court, and the clerk shall certify to the Court, at the first day of its sitting, the notices which have been so completed.

When notice
to be
completed.

(14) Where necessary, the clerk of the municipality may, at the cost of the municipality, call to his aid such assistance as may be required to effect the services which he is required

Clerk may
require
assistance in
making
services.

Power to
adjourn.

by law to make, and in the event of his failure to effect such services in time for the first sitting of the Court, the Court in its discretion, may appoint an adjourned sitting, for the purpose of hearing the appeals for which the services were not effected in time for the first day, and the proper services shall be made for such adjourned day.

Proceedings
when person
assessed
complains of
overcharge.

(15) If the person assessed complains of an overcharge on his taxable income, he or his agent may appear before the Court and make a declaration, Form 8, in case the complainant appears in person, and if the complainant appears by agent, such agent may make the declaration, Form 9; and the Court shall thereupon enter the person assessed at such an amount of taxable income as is specified in such declaration, unless the Court is dissatisfied with the declaration, in which case the person making the declaration, and any witnesses whom it may be desirable to examine, may be examined on oath by the Court respecting the correctness of such declaration; and the Court shall confirm, alter or amend the roll as the evidence seems to warrant.

Effect of
declaration.

Proceedings
in other
cases.

(16) In other cases, the Court, after hearing the complainant, and the assessor, or assessors, and any evidence adduced, and, if deemed desirable, the person complained against, shall determine the matter, and confirm or amend the roll accordingly. And the Court may, in determining the value at which any land shall be assessed, have reference to the value at which similar land in the vicinity is assessed. And in all cases which come before the Court it may increase the assessment or change it by assessing the right person, the clerk giving the latter or his agent four days' notice of such assessment, within which time he must appeal to the Court if he objects thereto.

Oaths of
certain parties
not necessary.

(17) It shall not be necessary to hear upon oath the complainant or assessor, or the person complained against, except where the Court deems it necessary or proper, or where the evidence of the person is tendered on his own behalf or required by the opposite party.

When to pro-
ceed *ex parte*.

(18) If either party fails to appear, either in person or by an agent, the Court may proceed *ex parte*. 4 Edw. VII. c. 23, s. 65 (1-18).

Correction
of errors.

(19) Where it appears that there are palpable errors in the roll of any municipality or of any ward which need correction, the Court may at any time during its sitting correct the same, if no alteration of assessed values is involved; and, if any alteration of assessed value is necessary, the Court may extend the time for making complaints for ten days from a day named by the Court and may then meet and determine the additional matter complained of, and the assessor may be or may be directed by the Court to be, for such purpose, the complainant. [See also Section 51.] 4 Edw. VII. c. 23, s. 65 (19); 10 Edw. VII. c. 88, s. 17.

(20) Subject to the provisions of sections 56 to 60 and to the provisions of any special Act affecting any particular municipality, all the duties of the Court of Revision, which relate to the matters aforesaid, shall be completed and the rolls finally revised by the Court, before the 1st day of July in every year. Business to be finished by July 1st.

(21) Upon an appeal upon any ground against an assessment, the Court of Revision may re-open the whole question of the assessment, so that omissions from, or errors in, the assessment roll may be corrected, and the accurate amount for which the assessment should be made and the person or persons who should be assessed therefor may be placed upon the roll by the Court; and if necessary the roll of any particular ward or subdivision of the municipality, even if returned as finally revised, may be opened so as to make the same correct in accordance with the finding of the Court. Procedure upon appeals.

(22) The clerk shall forthwith alter and amend the assessment roll in accordance with the decisions of the Court of Revision, and shall write his name or initials against every alteration or amendment. 4 Edw. VII. c. 23, s. 65 (20-22). Alteration of roll by clerk.

70. The roll, as finally passed by the Court, and certified by the clerk as passed, shall, except in so far as the same may be further amended on appeal to the Judge of the County Court, be valid, and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or mis-statement in the notice required by section 49 of this Act, or the omission to deliver or transmit such notice. Provided that the provisions of this section in so far as they relate to the omission to deliver or transmit such notice shall not apply to any person who has given the Clerk or Assessment Commissioner the notice provided for in subsection 7 of section 49. 4 Edw. VII. c. 23, s. 66. Roll to be binding notwithstanding errors in it or in notice sent to persons assessed.

71. A copy of any assessment roll, or portion of any assessment roll, written or printed, and under the seal of the corporation, and certified to be a true copy by the clerk of the municipality, shall be received as *prima facie* evidence in any court of justice without proof of the seal or signature, or the production of the original assessment roll of which such certified copy purports to be a copy, or a part thereof. 4 Edw. VII. c. 23, s. 67. Copy of assessment roll duly certified to be evidence.

APPEALS FROM THE COURT OF REVISION.

72.—(1) An appeal to the County Judge shall lie, at the instance of the municipal corporation, or at the instance of the assessor, or assessment commissioner, or at the instance of any municipal elector of the municipality not only against a decision of the Court of Revision on an appeal to the said Court, but also against any omission, neglect or refusal of the Appeal lies from decision or refusal to decide.

said Court to hear or decide an appeal. 4 Edw. VII. c. 23, s. 68 (1).

Service of
notice of
appeal.

(2) Subject to the provisions of sections 56 to 60, and to the provisions of any special Act affecting any particular municipality, the person appealing shall, in person or by his solicitor or agent, serve upon the clerk of the municipality (or assessment commissioner, if any there be), within five days after the date herein limited for the closing of the Court of Revision, or in case the Court shall sit to hear appeals after the said date then, within five days after the closing of the Court, a written notice of his intention to appeal to the County Judge. 4 Edw. VII. c. 23, s. 68 (2); 6 Edw. VII. c. 36, s. 14.

Day for
hearing.

(3) The clerk shall, immediately after the time limited for filing said appeals, forward a list of the same to the Judge, who shall then notify the clerk of the day he appoints for the hearing thereof, and shall, if in his opinion, the appeals or any of them appear to involve the calling or examination of witnesses, fix the place for holding such Court within the municipality, from the Court of Revision of which such appeal is made, or at the place nearest thereto where the sittings of the Division Court within his jurisdiction are held.

Places for
hearing ap-
peals from
Courts of
Revision.

Clerk to notify
parties.

(4) The clerk shall thereupon give notice to all the persons appealed against in the same manner as is provided for giving notice on a complaint under section 69; but in the event of failure by the clerk to have the required service of the notices in any appeal made, or to have the same made in proper time, the Judge may direct service to be made for some subsequent day upon which he may sit.

List of
appellants,
etc., to be
posted up by
clerk.

(5) The clerk of the municipality shall cause a notice to be posted up in a conspicuous place in his office, or the place where the council of the municipality hold their sittings, containing the names of all the appellants and persons appealed against, with a brief statement of the ground or cause of appeal, together with the date at which a Court will be held to hear appeals.

Clerk of
Court.

(6) The clerk of the municipality shall be the clerk of such Court; and he shall keep, in the book referred to in section 64, a record of the decision of the Judge upon each appeal.

Hearing and
adjournment.

(7) At the court so holden, the Judge shall hear the appeals and may adjourn the hearing from time to time, and defer judgment thereon at his pleasure, but so that (subject to the provisions of sections 56 to 60, and to the provisions of any special Act affecting any particular municipality) all the appeals may be determined before the 1st day of August.

Subpoena.

(8) A subpoena to compel the attendance of any witness required before the County Judge upon any appeal under this Act may be issued by the clerk of the County Court of

the county in which is situated the municipality whose assessment roll is in question, which said subpoena shall be tested as are other subpoenas issued out of the County Court of the said county in actions therein and may be intituled as is provided in section 75. 4 Edw. VII. c. 23, s. 68 (3-8).

73. At the Court to be holden by the County Judge, or acting Judge of the Court, to hear the appeals hereinbefore provided for, the person having charge of the assessment roll passed by the Court of Revision shall appear and produce such roll, and all papers and writings in his custody connected with the matter of the appeal, and such roll shall be altered and amended according to the decision of the Judge, if then given, who shall write his initials against any part of the said roll in which any mistake, error or omission is corrected or supplied; and if the decision is not then given, the clerk of the Court shall, when the same is given, forthwith alter and amend the roll according to the same, and shall write his name or initials against every such alteration or correction. 4 Edw. VII. c. 23, s. 69.

Assessment roll to be produced to the Court, and amended, etc.
Amendments how certified.

74.—(1) In all proceedings before the County Judge, or acting Judge of the Court, under or for the purposes of this Act, such Judge shall possess all such powers for compelling the attendance of, and for the examination on oath of all parties, whether claiming or objecting or objected to, and of all other persons whatsoever, and for the production of books, papers, rolls and documents, and for the enforcement of his orders, decisions and judgments, as belong to or might be exercised by him in the County Court.

Powers of Judge sitting in appeal from Court of Revision.

(2) The hearing of the said appeal by the County Judge shall, where questions of fact are involved, be in the nature of a new trial, and either party may adduce further evidence in addition to that heard before the Court of Revision subject to any order as to costs or adjournment which the Judge may consider just. 4 Edw. VII. c. 23, s. 70.

Appeal to County Judge where question of fact involved.

75. All process or other proceedings by way of appeal, may be intituled as follows:—

Style of proceedings.

In the matter of appeal from the Court of Revision of the
, of

....., Appellant,
and
....., Respondent,

and the same need not be otherwise intituled. 4 Edw. VII. c. 23, s. 71.

76. The costs of any proceeding before the Court of Revision or before the Judge as aforesaid shall be paid by or apportioned between the parties in such manner as the Court or Judge thinks fit, and where costs are ordered to be paid by any party claiming or objecting or objected to, or by any

Costs to be apportioned by the Judge and how enforced.

assessor, clerk of a municipality, or other person, payment of the same shall be enforced, when ordered by the Court of Revision, by a distress warrant under the hand of the clerk and the corporate seal of the municipality, and when ordered by the Judge, by execution to be issued as the Judge may direct, either from the County Court or the Division Court within the county in which the municipality or assessment district, or some part thereof, is situated, in the same manner as upon an ordinary judgment for costs recovered in such Court. 4 Edw. VII. c. 23, s. 72.

What costs chargeable.

77. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance, and none other; and the same shall be taxed according to the allowance in the Division Court for such costs; and in cases where execution issues, the costs thereof as in the like Court, and of enforcing the same, may also be collected thereunder. 4 Edw. VII. c. 23, s. 73.

Expenses of County Judges on assessment appeals.

78. County Court Judges shall be entitled to receive from the several municipalities as their expenses for holding Courts in such municipalities other than the county town, for the purpose of hearing appeals from the Court of Revision, under the provisions of this Act, the same sums as they are allowed for holding Courts for revising voters' lists. 4 Edw. VII. c. 23, s. 74.

Decision of County Judge to be final.

79. The decision and judgment of the Judge or acting Judge shall be final and conclusive in every case adjudicated upon. 4 Edw. VII. c. 23, s. 75.

Appeals where large amounts involved.

Appeal to Ontario Railway and Municipal Board in certain cases.

80.—(1) Where a person is assessed to an amount aggregating in a municipality in territory without county organization \$10,000 or upwards and in any other municipality \$40,000 or upwards, an appeal shall lie from the decision of the Judge to the Ontario Railway and Municipal Board, and any person who had appealed or was entitled to appeal from the Court of Revision to the Judge shall be entitled to make the appeal to the Board.

(2) An appeal to the Board shall also lie where the amount though originally less than the sum mentioned in the next preceding subsection has been increased by the Court of Revision or by the Judge so that it equals or exceeds that sum.

Clerk to notify Secretary of Board as to appeals.

(3) The clerk of the municipality shall forthwith by registered post notify the secretary of such Board of all notices of appeals coming within the provisions of this section, which are from time to time served upon him, and the secretary shall arrange a day for the hearing of such appeals, and

shall notify the clerk thereof, and the clerk shall immediately by registered post notify the persons appealing.

(4) Sections 72 to 79 and sections 81 and 82 shall apply Application of certain sections. to all appeals taken under subsections 1 or 2 and such Board shall have the powers and duties which by the said sections are assigned to a Judge of the County Court.

(5) The Board shall have power upon such appeal to Questions which may be decided on appeal. decide not only as to the amount at which the property in question shall be assessed, but also all questions as to whether any persons or things are liable to assessment or exempt from assessment under the provisions of this Act.

(6) An appeal shall lie from the decision of the Board Appeal from Board. under this section to a Divisional Court upon all questions of law, but such appeal shall not lie unless leave to appeal is given by the said court upon application of any party and upon hearing the parties and the Board.

(7) The practice and procedure on the appeal to a Divisional Court shall be the same *mutatis mutandis* Procedure on appeals. subject to any rule of court or regulation of the Board as upon an appeal from a County Court. 3-4 Geo. V. c. 46, s. 13.

81. In order to facilitate uniformity of decisions without the delay or expense of appeals,—

1. A County Judge may, after his judgment in the case or County judge may state case for opinion of Divisional Court. matter, prepare a statement of the facts in the nature of a case of any question of general application which has arisen under this Act, or on any question which has arisen upon an appeal of a person, partnership or corporation assessed on one or more properties to an amount aggregating \$10,000 and may transmit the same to the Lieutenant-Governor in Council, who thereupon may state a case and immediately refer the same to a Judge of a Divisional Court for the opinion of a Judge thereupon; or

2. The Lieutenant-Governor in Council may, without such Lieutenant-Governor may obtain opinion statement, refer a case on any such question to a Judge of a Divisional Court.

3. Immediately upon the receipt of such case it shall be Duty of Court. the duty of a Judge of such Court, to be named by the First Divisional Court or by the Chief Justice of Ontario, to appoint a time and place for hearing arguments, if any be offered, upon the points and matter involved in the case, of which time and place written notice shall be given by the Registrar of the Court by posting up a copy of the notice in the Central office of the Supreme Court at Osgoode Hall, in Toronto, at least ten clear days before the time appointed as aforesaid.

4. At the time and place fixed therefor as aforesaid, or at Argument. any time to which he may adjourn the same, the Judge shall hear argument upon the case by such of the counsel present

(if any) as he may deem reasonable, and shall thereupon consider the case and certify to the Lieutenant-Governor in Council his opinion thereon; and the opinion shall thereupon be forthwith published in *The Ontario Gazette*, and a copy thereof shall be sent to every Judge of a County Court.

Security for costs.

5. The Lieutenant-Governor in Council may impose such conditions as may appear to be reasonable as to a deposit of money or the execution of a bond to His Majesty to cover costs of any party or otherwise, before or upon the transmission of such case to the Judge.

Statement of cases not to affect rolls, etc., then being prepared.

6. The statement of any such case or the hearing or argument or other proceeding thereon under this Act shall not delay the final revision of the assessment roll or other proceedings thereon or the collection of taxes thereunder. The Judge may also direct and require notice of the proceeding to be served on any person, and that such person may be heard by counsel or personally and he may make such order in the premises and as to costs and the payment thereof as will, in his opinion, do justice to all parties concerned; and any such order may be enforced in the same manner as an order of a Judge of the Supreme Court under *The Judicature Act* or otherwise. But any such order, decision or judgment shall not alter, vary or invalidate any assessment or collector's roll made at or before the time when the decision, judgment or order is made.

Rev. Stat. c. 56.

References to full Court.

7. The Judge may at any stage of the proceedings refer the case to the full Court for hearing and adjudication, and the said Court shall have the authority and perform the duties hereinbefore assigned to or conferred upon a Judge. 4 Edw. VII. c. 23, s. 77.

Assessment to be open upon appeal.

82. Upon an appeal upon any ground against an assessment the Judge of the County Court or the Ontario Railway and Municipal Board hearing an appeal under section 80, or a Divisional Court, as the case may be, may re-open the whole question of the assessment, so that omissions from, or errors in, the assessment roll may be corrected, and the accurate amount for which the assessment should be made, and the person or persons who should be assessed therefor may be placed upon the roll by such Judge, Board or Court, and, if necessary, the roll of any particular ward or subdivision of the municipality, even if returned as finally revised, may be opened so as to make the same correct in accordance with the findings of such Judge, Board or Court. 4 Edw. VII. c. 23, s. 78.

Powers of County Judge, Court of Revision, etc., as to assessment.

83. It is hereby declared that the Court of Revision, the County Judge, The Ontario Railway and Municipal Board, and every Court to which and every Judge to whom an appeal lies under this Act have jurisdiction to determine not only the amount of any assessment, but also all ques-

tions as to whether any persons or things are or were assessable or are or were legally assessed or exempted from assessment. 10 Edw. VII. c. 88, s. 19.

84.—(1) Subject to the provisions of subsection 2 of this section, when after the appeal provided by this Act, the assessment roll has been finally revised and corrected, the clerk of the municipality shall, within 90 days, transmit to the county clerk a certified copy thereof.

Copy of roll to be transmitted to County Clerk.

(2) The council of any county may pass a by-law permitting the clerks of municipalities, instead of transmitting a copy of the roll as required by subsection 1, to submit a summarized statement of the contents of the roll, showing the total population of the municipality and the total assessment of each of the various classes of property liable to assessment; but the clerk of every municipality shall, nevertheless, transmit a copy of the roll to the Clerk of the County in every third year and whenever in other years he may be required so to do by the County Judge or by resolution of the County Council. 4 Edw. VII. c. 23, s. 79 (1-2).

Summarized statement of roll.

(3) For default in performance of his duties under this section, or under such by-law, the clerk of a municipality shall incur a penalty of not less than \$10 and not more than \$20. 10 Edw. VII. c. 88, s. 30.

Penalty.

EQUALIZATION.

County Valuers.

85.—(1) The council of every county may appoint two or more valuers for the purpose of valuing the real property within the county, and it shall be their duty to ascertain, in every fifth year at furthest, the value of the same in the manner directed by the county council, but the valuers shall not exceed the powers possessed by assessors. The valuation so made shall be made by the county council the basis of equalization of the real property for a period not exceeding five years.

County Council may appoint valuers, their duties, etc.

Equalization of real property.

(2) The county council may, at or before the expiration of the said period, extend the time for a term not exceeding five years further and thereupon the valuation shall continue to be made the basis of equalization of the real property by the county council for such extended period.

Terms for which valuation to be in force.

(3) When valuers have been appointed under this section the said valuers may ascertain the value of the said real property by inspecting and valuing from five to eight per cent. of the different parcels of land in different parts of each municipality in the county, and upon such inspection and valuation the said valuers shall compare their

Method of valuing by county valuers.

valuations with the valuations in the last revised assessment roll made by the assessors of the several municipalities within the county; and if upon such comparison it is found that the valuation of the county valutors nearly corresponds in the aggregate with the valuation upon the assessment roll of a municipality, the valutors and afterwards the county council shall accept the assessment roll as correct for the purposes of county valuation.

Where valuation differs from total assessment.

(4) Where it is found that the valuations of particular lots made by the county valutors differ materially from the valuations of the same lots upon the assessment roll of a municipality, the county valutors shall add or deduct a corresponding percentage to or from the local assessment; and a similar method shall be followed with respect to the valuation of real property in towns and villages.

Attestation of valutors' report.

(5) The valutors shall attest their report on the value of the real property within the county by oath or affirmation in regard to the property actually inspected and valued by them in the same manner as assessors are required to verify assessment rolls. 4 Edw. VII. c. 23, s. 80.

Annual examination of assessment rolls by county councils for purpose of equalization.

86.—(1) The council of every county shall, yearly, and not later than the first day of July, examine the assessment rolls of the different townships, towns and villages in the county, for the preceding financial year, for the purpose of ascertaining whether the valuations made by the assessors in each township, town or village bear a just relation one to another; and may, by by-law for the purpose of county rates, increase or decrease in any township, town or village, the aggregate valuations, adding or deducting so much per cent. as may, in their opinion, be necessary to produce a just relation between them; but they shall not reduce the aggregate valuation for the whole county as made by the assessors.

Notice of equalization to municipalities concerned.

(2) Within ten days after the equalization by-law has been passed by the county council, the county clerk shall transmit to the reeve and clerk of each municipality a copy thereof. 4 Edw. VII. c. 23, s. 81.

Appeal as to equalization of assessments.

87. If any municipality is dissatisfied with the action of any county council in increasing or decreasing, or refusing to increase or decrease the valuation of any municipality, the proceedings shall be as follows:

Notice of appeal.

1. The municipality so dissatisfied may appeal from the decision of the council at any time within twenty days after the passing of such by-law, by giving to the clerk of the county council notice in writing, which notice shall state whether the municipality appealing is willing to have the final equalization of the assessment made by the County Judge.

County council may elect as to county judge acting.

2. Every county council, at the same session in which the assessment has been equalized, shall determine whether the

said council is willing to have the final equalization of the assessment, in case of appeal, made by the County Judge.

3. Upon receiving notice of appeal, in case any party to the appeal has objected to the final equalization of the assessment being made by the County Judge, the clerk of the county council shall forthwith notify in writing the Provincial Secretary of such objection, giving the name or names of the municipality or municipalities so objecting. 4 Edw. VII. c. 23, s. 82, pars. 1-3.

Notice to
Provincial
Secretary.

4. The Lieutenant-Governor in Council, upon receiving the notice in writing from the clerk of any county council, may appoint two persons, one of whom shall be the sheriff or registrar of the county in which the appeal is made, and the other a Judge of another county, who together with the County Judge shall form a Court, and the said Court shall at such time and place as the Lieutenant-Governor in Council may appoint, proceed to hear and determine the appeal either with or without the evidence of witnesses, or with such evidence as they may decide upon hearing, and may examine witnesses under oath or otherwise, and may adjourn from time to time; and the Court shall equalize the whole assessment of the county and shall forthwith report the same to the county council. 4 Edw. VII. c. 23, s. 82, par. 4; 3-4 Geo. V. c. 46, s. 14 (1), *part*.

Appointment
of court by
Order-in-
Council.

5. It shall be the duty of the Court to dispose of the appeal before the first day of January next after the appeal. 3-4 Geo. V. c. 46, s. 14 (1), *part*.

Time for
disposal of
appeal.

6. The Judge of the other county shall be entitled to a reasonable allowance for his services, the same not to exceed \$10 a day, besides his travelling and other expenses, and the County Judge, sheriff, or registrar, shall also receive a reasonable sum, not to exceed \$10 each per day, and to be paid by the county.

Fees of Judge,
sheriff and
registrar.

7. Any two members of such Court shall constitute a quorum, and such Court may proceed and adjudicate upon such appeal, notwithstanding the office of sheriff or registrar or County Judge is vacant. 4 Edw. VII. c. 23, s. 82, pars. 5, 6.

8. Where all the parties to the appeal have agreed, as above provided, to have the final equalization of the assessment made by the County Judge, the clerk of the county council shall forthwith notify in writing the County Judge, and the County Judge shall appoint a day for hearing the appeal, not later than ten days from the receipt of such notice of the appeal, and may on such day proceed to hear and determine the appeal, either with or without the evidence of witnesses, or with such evidence as he may decide upon hearing, and may examine witnesses under oath or otherwise, and may adjourn, from time to time; and the

Equalization
by County
Judge.

Judge shall equalize the whole assessment of the county, and shall forthwith report the same to the county council. 4 Edw. VII. c. 23, s. 82, par. 7; 3-4 Geo. V. c. 46, s. 14 (2), *part*.

Time for disposal of appeal.

9. It shall be the duty of the Judge to dispose of the appeal before the first day of January next after the appeal. 3-4 Geo. V. c. 46, s. 14 (2), *part*.

Appeal in cases of equalization of assessment.

10. The right of appeal shall exist whether county valuers have been appointed or not, and upon any such appeal the report of the county valuers shall be open to review by the Court or Judge as herein provided.

Costs.

11. The costs incurred in the prosecution and opposing of such appeal respectively shall be borne and paid as directed by the County Judge or Court as the case may be, and not otherwise, and shall be subject to taxation on the County Court scale by the clerk of the County Court of the said county. 4 Edw. VII. c. 23, s. 82, pars. 8, 9.

Appeal to Divisional Court.

12. An appeal shall lie to a Divisional Court from any judgment of the Judge on a question of law or the construction of a Statute, and if the judgment of the Divisional Court reverses or varies the judgment of such Judge he shall change or vary his judgment so as to conform to the judgment of the Divisional Court.

Procedure on appeal.

13. The procedure on such appeal shall be, as nearly as may be, the same as upon an appeal from a County Court to a Divisional Court. 3-4 Geo. V. c. 46, s. 14 (3).

Effect of clerk of municipality omitting to send copy of roll.

88. If the clerk of the municipality has neglected to transmit a certified copy of the assessment roll, such neglect shall not prevent the county council from equalizing the valuations in the several municipalities according to the best information obtainable; and any rate imposed, according to the equalized assessment, shall be as valid as if the assessment rolls had been transmitted. 4 Edw. VII. c. 23, s. 83.

Apportionment of county rates, how to be based.

89. The council of a county, in apportioning a county rate among the different townships, towns and villages within the county, shall, in order that the same may be assessed equally on the whole rateable property of the county, make the assessment of property equalized in the preceding year the basis upon which the apportionment is made. 4 Edw. VII. c. 23, s. 84.

Case of new municipalities.

90. Where boundaries of existing municipalities are changed, or where a new municipality is erected within a county so that there are no assessment or valuator's rolls of the new municipality for the next preceding year, the county council shall, by examining the rolls of the former municipi-

pality or municipalities of which the new municipality then formed part, ascertain, to the best of their judgment, what part of the assessment of the municipality or municipalities had relation to the new municipality, and what part should continue to be accounted as the assessment of the original municipality, and their several shares of the county tax shall be apportioned between them accordingly. 4 Edw. VII. c. 23, s. 85.

91. Where a sum is to be levied for county purposes, or by the county for the purposes of a particular locality, the council of the county shall ascertain, and, by by-law, direct what portions of such sum shall be levied in each township, town or village in such county or locality. 4 Edw. VII. c. 23, s. 86.

County councils to apportion sums required for county purposes.

92. The county clerk shall forthwith after the county rates have been apportioned certify to the clerk of each municipality in the county, the total amount which has been so directed to be levied therein for the then current year, for county purposes, or for the purposes of any such locality and the clerk of the municipality shall calculate and insert the same in the collector's roll for that year. 4 Edw. VII. c. 23, s. 87.

County clerk to certify amounts to clerks of municipalities.

93. Nothing in this Act contained shall alter or invalidate any special provisions for the collection of a rate for interest on county debentures, whether such provisions are contained in any Municipal Act now or formerly in force in this Province, or in any Act respecting The Consolidated Municipal Loan Fund of Ontario, or in any general or special Act authorizing the issue of debentures, or in any by-law of the county council providing for the issue of the same. 4 Edw. VII. c. 23, s. 88.

Act not to affect provisions for rates to raise interest on county debentures

COLLECTION OF TAXES.

94. The taxes due upon any land with costs may be recovered with interest as a debt due to the municipality from the owner or tenant originally assessed therefor and from any subsequent owner of the whole or any part thereof, saving his recourse against any other person, and shall be a special lien on the land in priority to every claim, privilege, lien or encumbrance of every person except the Crown, and the lien and its priority shall not be lost or impaired by any neglect, omission or error of the municipality, or of any agent or officer, or by want of registration. 4 Edw. VII. c. 23, s. 89.

Who liable for taxes.

Taxes to be a lien upon lands.

95.—(1) The taxes payable by any person may be recovered with interest and costs, as a debt due to the municipality; in which case the production of a copy of so much of the collector's roll as relates to the taxes payable by such

Recovery of taxes by action.

person, purporting to be certified as a true copy by the clerk of the municipality, shall be *prima facie* evidence of the debt.

Recovery in
Division Court.

(2) Where the amount claimed does not exceed \$200, an action to recover the same may be brought in a Division Court. 4 Edw. VII. c. 23, s. 90.

Paying rent to
collector until
taxes paid.

96. Where taxes are due upon any land occupied by a tenant, the collector may give such tenant notice in writing requiring him to pay such collector the rent of the premises as it becomes due from time to time to the amount of the taxes due and unpaid and costs; and the collector shall have the same authority as the landlord of the premises would have to collect such rent by distress or otherwise to the amount of such unpaid taxes and costs; but nothing in this section contained shall prevent or impair any other remedy for the recovery of the taxes or any portion thereof from such tenant or from any other person liable therefor. 4 Edw. VII. c. 23, s. 91.

When tenant
may deduct
taxes from
rent.

97. Any tenant may deduct from his rent any taxes paid by him which as between him and his landlord the latter ought to pay. 4 Edw. VII. c. 23, s. 92.

Provincial
taxes.

98. All moneys assessed, levied and collected under any Act by which the same are made payable to the Treasurer of Ontario, or other public officer for the public uses of Ontario, or for any special purpose or use mentioned in the Act, shall be assessed, levied and collected in the same manner as local rates, and shall be similarly calculated upon the assessments as finally revised, and shall be entered in the collector's rolls in separate columns, in the heading whereof shall be designated the purpose of the rate. 4 Edw. VII. c. 23, s. 93.

COLLECTOR'S ROLLS.

Clerk of muni-
cipalities to
make out
collector's
rolls: their
form, contents,
etc.

99.—(1) The clerk of every municipality shall make a collector's roll or rolls, as may be necessary, containing columns for all information, required by this Act to be entered by the collector therein; and in such roll or rolls he shall set down the name in full of every person assessed, and in the proper columns in that behalf the amount for which he is assessed in respect of his real property and income and otherwise under this Act as ascertained after the final revision of the assessment roll; and he shall calculate, and, opposite the assessed value, he shall set down in one column to be headed "*County Rates*," the amount for which the person is chargeable for any sums ordered to be levied by the council of the county for county purposes, and in another column to be headed "*General Rate*," the amount with which the person is chargeable in respect of sums ordered to be levied by the

council of the municipality for the purposes thereof, and including any special rate for collecting the principal or interest for the payment of debentures issued, and in other columns any local improvement rate or school rate or other special rate, or sums for the commutation of statute labour, the proceeds of which are required by law, or by the by-law imposing it, to be kept distinct and accounted for separately; and every such last mentioned rate shall be calculated separately, and the column therefor shall be headed "*Special Rate*," "*Local Improvement Rate*," "*Public School Rate*," "*Separate School Rate*," or "*Special Rate for School Debts*," or as the case may be.

(2) Notwithstanding anything contained in subsection 1, the council of any city or town may by by-law provide that the clerk shall set down the name in full of every person assessed and the assessed value of his real property and taxable income, as ascertained after the final revision of the assessment roll, and opposite the assessed value he shall set down in a column for that purpose the amount for which the person is chargeable, for all sums ordered to be levied by the council of the said municipality for the purpose thereof.

Form and
contents of
collector's
rolls.

(3) Appended to every roll made up under subsection 2 of this section there shall also be a table setting forth

Information to
be given in
tables append-
ed to rolls.

(a) the total amount of taxes to be collected under and by virtue of such roll or rolls; and

(b) the name and amount of each rate levied by the municipality which is required by law or by the by-law imposing it, to be kept distinct and accounted for separately and specifying the aggregate proceeds of each rate;

and the clerk shall, before delivering the roll to the collector, furnish to the treasurer of the municipality a copy of such table. 4 Edw. VII. c. 23, s. 94.

100. The clerk shall attach to a roll a certificate signed by him according to the following form:—

Collector's roll
to be certified
by clerk.

I do certify that the within (or annexed, or attached, or as the case may be) Roll is the Collector's Roll prepared according to the provisions of The Assessment Act for (naming the municipality, or for Ward No. — of — as the case may be) for the year 19 — .

A. B.,

Clerk of —

and shall deliver the roll so certified to the collector on or before the 1st day of October, or such other date as may be prescribed by by-law of the municipality. 4 Edw. VII. c. 23, s. 95.

101. The clerk of every township shall also make out a roll in which he shall enter the lands of non-residents

a Roll of non-
residents in
township.

assessed as provided in clause (i) of subsection 1 of section 22, together with the value of every lot, part of lot, or parcel, as ascertained after the revision of the roll; and he shall enter, opposite to each lot or parcel, all the rates or taxes with which the same is chargeable, in the same manner as is provided for the entry of rates and taxes upon the collector's roll; and he shall, on or before the 1st day of November, transmit the roll so made out, certified under his hand, to the treasurer of the county, but this section shall not apply to the townships of York, Scarborough, and Etobicoke. 4 Edw. VII. c. 23, s. 96; 6 Edw. VII. c. 36, s. 15.

If corrections made after collector's rolls prepared, mode to collect taxes on corrected roll.

102. If corrections are made in the assessment roll, under subsection 21 of section 69 or under section 82, after the collector's roll or rolls for the municipality for the year for which such assessment has been made have been prepared, the Clerk of the municipality shall alter or amend the collector's roll or rolls to correspond with the changes made by the Court of Revision, Judge, Board or Court under the said sections, and by inserting the proper rates therefor, and the rates or taxes shall be collectable in accordance with such corrected rolls in the same manner and with the like remedies as if the same had been in the rolls when first prepared and certified by the Clerk of the municipality. 4. Edw. VII. c. 23, s. 97.

COLLECTORS AND THEIR DUTIES.

Duties of collectors.

103. The collector, upon receiving his roll, shall proceed to collect the taxes therein mentioned. 4 Edw. VII. c. 23, s. 98.

Notice of Taxes to Residents.

Demand or notice of taxes by collector.

104.—(1) In cities, towns, villages and townships he shall call at least once on the person taxed, at his usual residence or place of business if within the municipality in and for which he has been appointed, and shall demand payment of the taxes; or he shall give to such person a written or printed notice specifying the amount of the taxes payable by him, by delivering the same, or causing the same to be delivered to him, or for him at his residence or place of business, or upon the premises in respect of which the taxes are payable.

How may be given in cities, towns and villages.

(2) In cities, towns and villages the collector may, if so authorized by by-law of the municipality (which by-law the council of the municipality is hereby empowered to pass), mail the notice or cause the same to be mailed to the address of the residence or place of business of such person.

Particulars to be given in tax notice.

(3) The written or printed notice above mentioned shall have written or printed thereon, a schedule specifying the different rates and the amount on the dollar to be levied for each rate, making up the aggregate of the taxes referred to

in such notice, and also containing the information required to be entered in the collector's roll under section 99. 4 Edw. VII. c. 23, s. 99.

105.—(1) The collector shall at the time of such demand or notice as the case may be, or immediately thereafter, enter or cause to be entered on his roll opposite the name of the person taxed, the date of such demand or of the delivery or mailing of such notice. Entry of date of giving notice.

(2) Every person so entering any such date shall append his initials thereto, and the entry shall be *prima facie* evidence of such demand or notice. Initials to entries. 4 Edw. VII. c. 23, s. 100.

Notice to Non-Residents.

106. If any person whose name appears on the roll is not resident within the municipality, the collector shall transmit to him by post, addressed in accordance with the notice given by such non-resident, if notice has been given, a statement and demand of the taxes charged against him in the roll, and shall at the time of such transmission enter or cause to be entered the date thereof in the roll, opposite the name of such person; and such entry shall be *prima facie* evidence of such transmission and of the time thereof; and the said statement and demand shall contain, written or printed on some part thereof, the name and post-office address of such collector. Proceedings in case of non-residents. 4 Edw. VII. c. 23, s. 101.

Registration of Notice.

107. In case any person assessed, whether resident or non-resident, furnishes the assessment commissioner, or if none, the clerk, with a notice in writing giving an address to which the notice of taxes may be transmitted to him, and requesting that the same be transmitted to such address by registered letter, the commissioner or clerk shall enter the words "to be registered" on the roll opposite the name of such person and the notice shall be so transmitted by the collector, who shall add to the taxes the cost of registration, to be paid by such person as part of his taxes; and any such notice so given to the commissioner or clerk shall stand until revoked in writing. Notice of address to which tax bills to be sent. 8 Edw. VII. c. 50, s. 9.

By-laws as to mode of Payment of Taxes.

108.—(1) In cities, towns, townships or villages, the council may by by-law require the payment of taxes, including local improvement assessments, sewer rents and rates, and of other rents or rates payable as taxes, to be made into the office of the treasurer or collector by any day or days to be named therein, in bulk or by instalments, and may provide that on the punctual payment of any instalment the By-laws requiring taxes to be paid into office of treasurer or collector.

Payment by instalments.

time for payment of the remaining instalment or instalments shall be extended to a day or days to be named, or may provide that in default of payment of any instalment by the day named for payment thereof, the subsequent instalment or instalments shall forthwith become payable.

Discount on punctual payment of taxes.

(2) The council may also by by-law allow a discount for the payment of such taxes or any class of taxes or of any instalment thereof on or before a day or days therein named and may impose an additional percentage charge for non-payment of such taxes or any class of taxes or of any instalment thereof by a day or days named in such by-law, provided that no greater percentage charge than five per cent. shall be imposed on any instalment of taxes or on the aggregate amount of taxes; and such additional percentage charge shall be added to such unpaid tax, or assessment, rent or rate, or instalment thereof, and shall be collected by the collector or otherwise, as if the same had been originally imposed and formed part of such unpaid tax, or assessment, rent, or rate, or instalment thereof.

Discount or charge may be on sliding scale.

(3) Such discount or additional charge may by the by-law be provided for on the basis of a sliding scale corresponding with the length of time default is made but so as not in the aggregate to exceed five per cent. as aforesaid.

Notice as to time and mode of payment.

(4) In case a by-law is passed providing for payment by instalments or allowing any such discount or imposing any such additional percentage charge, a notice shall be given in accordance with section 104 on which shall be written or printed a concise statement of the time and manner of payment and of the discount allowed or the percentage charge imposed, if any, and at any time within fourteen days after such notice has first been given, in accordance with section 104, any person may take advantage of the provisions of such by-law as to payment by instalments or with the discount allowed thereby, or without the additional percentage charge imposed thereby, as the case may be.

By-law to be in force till return of collector's roll.

(5) Where, in accordance with this section, a percentage is added to unpaid taxes, the by-laws shall not be repealed before the return of the collector's roll. 4 Edw. VII. c. 23, s. 102.

By-laws directing payment of moneys into bank to credit of corporation.

(6) The council of any municipality may by by-law direct that moneys payable to the municipality for taxes or rates and upon such other accounts as may be mentioned in the by-law shall be by the collector of taxes or by the person charged with the payment thereof paid into such chartered bank as the council shall by such by-law direct to the credit of the treasurer of the municipality, and in such case the person making the payment shall obtain a receipt from the bank therefor, and produce the same to the municipal treasurer, who shall make the proper entries therefor in the books of the municipality. 3 Edw. VII. c. 7, s. 40.

Distress for Recovery of Taxes.

109.—(1) Subject to the provisions of section 108, in case taxes which are a lien on land remain unpaid for fourteen days after demand or notice made or given pursuant to sections 104, 106, or 108, the collector or, where there is no collector, the treasurer may by himself or his agent (subject to the exemptions and provisos hereafter in this section mentioned), levy the same with costs by distress,

Distress and sale for taxes which are a charge on land.

1. Upon the goods and chattels, wherever found within the county in which the municipality lies, belonging to, or in the possession of the owner or tenant of the land, whose name appears upon the collector's roll (who is hereinafter called "the person taxed");
2. Upon the interest of the person taxed in any goods on the land, including his interest in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any condition;
3. Upon the goods and chattels of the owner of the land found thereon, though his name does not appear upon the roll;
4. Upon any goods and chattels on the land, where title to such goods and chattels is claimed in any of the ways following:
 - (a) By virtue of an execution against the person taxed, or against the owner, though his name does not appear on the roll; or
 - (b) By purchase, gift, transfer or assignment from the person taxed, or from such owner, whether absolute or in trust, or by way of mortgage, or otherwise; or
 - (c) By the wife, husband, daughter, son, daughter-in-law or son-in-law of the person taxed, or of such owner, or by any relative of his, in case such relative lives on the land as a member of the family; or
 - (d) By virtue of any assignment or transfer made for the purpose of defeating distress;

On goods of persons taxed.

On interest of person taxed in goods on the land.

Goods of owner.

Certain goods on the land though claimed adversely to owner or the person taxed.

Provided that where the person taxed or such owner is not in possession, goods and chattels on the land not belonging to the person taxed or to such owner, shall not be subject to seizure; and the possession by the tenant of the said goods and chattels on the premises shall be sufficient *prima facie* evidence that they belong to him.

Not on goods of third persons where persons taxed or owner not in possession. Evidence of ownership.

Case of tenant.

Provided also, that no distress shall be made upon the goods and chattels of a tenant for any taxes not originally assessed against him as such tenant.

Taxes on vacant land in cities and towns.

Provided also, that in cities and towns no distress for taxes in respect of vacant land shall be made upon goods or chattels of the owner except upon the land.

In the case of taxes not a charge on land.

(2) Subject to the provisions of section 108, in case of taxes which are not a lien on land remaining unpaid for fourteen days after demand or notice made or given pursuant to sections 104, 106 or 108, the collector, or where there is no collector, the treasurer, may by himself or his agent (subject to the exemptions provided for in subsection 4) levy the same with costs by distress:

1. Upon the goods and chattels of the person taxed wherever found within the county in which the municipality lies for judicial purposes;
2. Upon the interest of the person taxed in any goods to the possession of which he is entitled under a contract for purchase, or a contract by which he may or is to become the owner thereof upon performance of any condition;
3. Upon any goods and chattels in the possession of the person taxed where title to the same is claimed in any of the ways defined by sub-clauses *a, b, c* and *d* in subsection 1 of this section, and in applying the said sub-clauses they shall be read with the words "or against the owner through his name does not appear on the roll," and the words "or such owner," and the words "on the land" omitted therefrom. 4 Edw. VII. c. 23, s. 103 (1-2).
4. Upon goods and chattels which at the time of making the assessment were the property and on the premises of the person taxed in respect of business assessment and at the time for collection of taxes are still on the same premises, notwithstanding that such goods and chattels are no longer the property of the person taxed. 1 Geo. V. c. 59, s. 5.

Distress on goods and chattels sold by person taxed.

Case of goods in possession of warehouseman.

(3) Notwithstanding anything in the preceding subsections no goods which are in the possession of the person liable to pay such taxes for the purpose only of storing or warehousing the same or of selling the same upon commission or as agent shall be levied upon or sold for such taxes; and provided further that goods in the hands of an assignee for the benefit of creditors or in the hands of a liquidator under a winding-up order shall be liable only for the taxes of the assignor or of the company which is being wound up, and for the taxes upon the premises in which the said goods were at the time of the assignment or winding-up order, and

Case of goods in possession of assignee or liquidator.

thereafter while the assignee or liquidator occupies the premises or while the goods remain thereon.

(4) The goods and chattels exempt by law from seizure under execution shall not be liable to seizure by distress unless they are the property of the person taxed, or of the owner, though his name does not appear on the roll. Goods exempt under execution when exempt from distress for taxes.

(5) The person claiming such exemption shall select and point out the goods and chattels as to which he claims exemption. Exemption to be claimed.

(6) If at any time after demand has been made or notice given pursuant to sections 104, 106 or 108, and before the expiry of the time for payment of the taxes, the collector, or, where there is no collector, the treasurer has good reason to believe that any person in whose hands goods and chattels are subject to distress under the preceding provisions, is about to remove such goods and chattels out of the municipality before such time has expired, and makes affidavit to that effect before the mayor or reeve of the municipality, or before any Justice of the Peace, the mayor, reeve or Justice shall issue a warrant to the collector or treasurer, authorizing him to levy for the taxes and costs, in the manner provided by this Act, although the time for payment thereof may not have expired, and the collector or treasurer may levy accordingly. Levy of taxes under warrant.

(7) A city shall for the purposes of this section be deemed to be within the county of which it forms judicially a part. Case of city.

(8) The costs chargeable in respect of any such distress and levy shall be those payable to bailiffs under *The Division Courts Act*. Costs. Rev. Stat. c. 63.

(9) No person shall make any charge for anything in connection with any such distress or levy unless such thing has been actually done. Prohibition.

(10) In case any person offends against the provisions of subsection 9 or levies any greater sum for costs than is authorized by subsection 8, the like proceedings may be taken against him by the person aggrieved, as may be taken by the party aggrieved in the cases provided for by sections 4 and 5 of *The Costs of Distress Act*. 4 Edw. VII. c. 23, s. 103 (3-10). Penalty. Rev. Stat. c. 78.

110. No defect, error or omission in the form or substance of the notice required by sections 104, 106 or 108 shall invalidate any subsequent proceedings for the recovery of the taxes. 4 Edw. VII. c. 23, s. 104. Informalities not to invalidate subsequent proceedings.

111. The collector shall, by advertisement posted up in at least three public places in the township, village or ward wherein the sale of goods and chattels distrained is to be made give at least six days' public notice of the time and place of sale, and of the name of the person whose property Public notice of sale to be given, and in what manner.

is to be sold; and, at the time named in the notice, the collector or his agents shall sell at public auction the goods and chattels distrained, or so much thereof as may be necessary. 4 Edw. VII. c. 23, s. 105.

Surplus, if unclaimed, to be paid to party in whose possession the goods were:

112. If the property distrained has been sold for more than the amount of the taxes and costs, and if no claim to the surplus is made by any other person, on the ground that the property sold belonged to him, or that he was entitled by lien or other right to the surplus, such surplus shall be returned to the person in whose possession the property was when the distress was made. 4 Edw. VII. c. 23, s. 106.

or to admitted claimant.

113. If such claim is made by the person for whose taxes the property was distrained, and the claim is admitted, the surplus shall be paid to the claimant. 4 Edw. VII. c. 23, s. 107.

When the right to such surplus contested.

114. If the claim is contested, such surplus shall be paid by the collector to the treasurer of the municipality, who shall retain the same until the respective rights of the parties have been determined by action or otherwise. 4 Edw. VII. c. 23, s. 108.

Collector to return his roll and pay over proceeds by the day to be appointed by council.

115.—(1) Subject to the provisions of subsections 2 and 3 of this section every collector shall return his roll to the treasurer on or before the 14th day of December in each year, or on such day in the next year not later than the 1st day of February, as the council of the municipality may appoint.

In towns and villages.

(2) In towns and villages to which any by-law passed pursuant to sections 56 to 60 of this Act applies every collector shall return his roll to the treasurer on or before the 30th day of April in the second year following the completion of the assessment roll, or such earlier date in that year as the council may appoint.

In cities.

(3) The council of every city may by by-law fix the times for the return of the collector's rolls, and may make any enlargements of the time so fixed.

Collectors of cities, towns and villages to pay to treasurer weekly.

(4) The collector of every city, town and village shall pay over to the treasurer of such city, town or village once every week until the final return of the roll, the total amount collected during the preceding week.

Collector of township to pay to treasurer every two weeks.

(5) The collector of every township shall pay over to the treasurer of such township once in every two weeks until the final return of the roll, the total amount collected during the preceding two weeks. 4 Edw. VII. c. 23, s. 109.

Oath of collector on returning roll.

116.—(1) At or before the return of his roll every collector shall make oath in writing that the date of every demand of payment or notice of taxes required by sections 104 or 108, and every transmission of statement and demand

of taxes required by section 106 entered by him in the roll, has been truly stated therein.

(2) Every other person who has delivered or mailed a notice pursuant to sections 104, 106 or 108 shall in like manner at or before the return of the roll make oath that the date of the delivery or mailing of every such notice by him, has been truly stated in the roll.

(3) Every such oath may be according to Form 10 and shall be written on or attached to the roll and may be taken before the treasurer, or before any of the persons mentioned in section 228. 4 Edw. VII. c. 23, s. 110. Form of oath, etc.

117.—(1) In case the collector fails or omits to collect the taxes or any portion thereof by the day appointed or to be appointed as in section 115 mentioned, the council may, by resolution, authorize the collector, or some other person in his stead, to continue the levy and collection of the unpaid taxes, in the manner and with the powers provided by law for the general levy and collection of taxes. Other persons may be employed to collect taxes which collector does not collect by a certain day.

(2) No such resolution or authority shall alter or affect the duty of the collector to return his roll, nor shall, in any manner whatsoever, invalidate or otherwise affect the liability of the collector or his sureties. 4 Edw. VII. c. 23, s. 111. Duty as to return not affected.

118.—(1) The Court of Revision shall, at any time during the year for which the assessment has been made or before the 1st day of July in the following year and with or without notice, receive and decide upon the petition from any person assessed for a tenement which has remained vacant during more than three months in the year for which the assessment has been made, or from any person who declares himself, from sickness or extreme poverty unable to pay the taxes, or who, by reason of any gross and manifest error in the roll, has been over-charged, or whose land has been assessed under section 54; or who has been assessed for business, but has not carried on business for the whole year, or who has been assessed for income from personal earnings and has not earned such income or has died during the year for which the assessment on such income was made; and the Court of Revision may (subject to the provisions of any by-law in this behalf) remit or reduce the taxes due by any such person, or reject the petition; and the council may from time to time make such by-laws, and repeal or amend the same. 4 Edw. VII. c. 23, s. 112 (1); 10 Edw. VII. c. 88, s. 20. Remission or reduction of taxes by the council.

(2) An appeal may be had by such person or by the Appeals municipality from any decision of the Court of Revision under subsection 1. 4 Edw. VII. c. 23, s. 112 (2).

119.—(1) If any of the taxes mentioned in the collector's roll remain unpaid, and the collector is not able to collect the same, he shall deliver to the treasurer of his municipality an Proceedings when taxes are unpaid, and cannot be collected.

account of all the taxes on the roll remaining unpaid; and, in such account, the collector shall shew, opposite to each assessment, the reason why he could not collect the same by inserting in each case the words "*Non-resident*" or "*Not sufficient property to distrain,*" or "*Instructed by Council not to collect,*" or "*Instructed by Council to return not collected,*" or as the case may be.

Duplicate of
account for
clerk.

(2) Subject to the next following subsection, the collector shall at the same time furnish the clerk of the municipality with a duplicate of such account, and the clerk shall, upon receiving the same, mail a notice to each person appearing on the roll with respect to whose land any taxes appear to be in arrear for that year.

(3) In cities the treasurer shall give the notice hereinbefore directed to be given by the clerk. 4 Edw. VII. c. 23, s. 113.

When there is
not sufficient
distress on
such lands.

120. If there is not sufficient distress upon any of the occupied lands or lands built upon in section 128 mentioned to satisfy the total amount of taxes charged against the same, as well for arrears as for the taxes of the current year, the collector shall so return it in his roll to the treasurer of the municipality, shewing the amount collected, if any, and the amount remaining unpaid, and stating the reason why payment has not been made. 4 Edw. VII. c. 23, s. 114.

When taxes
not collected,
collectors to
be credited
with amount.

121.—(1) Upon making oath before the treasurer that the sums mentioned in such account remain unpaid, and that he has not, upon diligent inquiry, been able to discover sufficient goods or chattels subject to distress under section 109, whereon he could levy the same, or any part thereof, the collector shall be credited with the amount not realized.

Qualification
of oath re
vacant land.

(2) In cities and towns and any other municipalities having power to sell lands for non-payment of taxes the collector of taxes may qualify the oath, by subsection 1 directed to be made by him by showing that in respect of vacant land, he has not attempted to distrain upon the goods and chattels of the owner except upon such vacant land. 4 Edw. VII. c. 23, s. 115.

ARREARS OF TAXES ACCRUED ON LAND.

Statement of
arrears to be
prepared by
treasurer.

122.—(1) The treasurer of every township and village shall, within fourteen days after the time appointed for the return and final settlement of the collector's roll, and before the 8th day of April in every year, furnish the county treasurer with a statement of all unpaid taxes and school rates directed in the said collector's roll or by school trustees to be collected.

Contents of
statement.

(2) Such statement shall contain a description of the lots or parcels of land, a statement of unpaid arrears of taxes, if any, and of arrears of taxes paid, on lands of non-residents which have become occupied, as required by section 128 of

this Act; and the county treasurer shall not be bound to receive any such statement after the 8th day of April in each year.

(3) The treasurer in such statement and both he and all other officers of the municipality shall from time to time furnish to the county treasurer such other information as the county treasurer may require and demand, in order to enable him to ascertain the just tax chargeable upon any land in the municipality for that year. 4 Edw. VII. c. 23, s. 116. Other information.

123. If two or more municipalities, having been united for municipal purposes, are afterwards disunited, or if a municipality or part of a municipality is afterwards added to or detached from any county, or to or from any other municipality, the county or other treasurer shall make corresponding alterations in his books, so that arrears due on account of any parcel or lot of land, at the date of the alteration, shall be placed to the credit of the municipality within which the land after such alteration is situate. 4 Edw. VII. c. 23, s. 117. Municipalities united and afterwards disunited, etc.

124. The county or other treasurer shall not be required to keep a separate account of the several district rates which may be charged on lands, but all arrears, from whatever rates arising, shall be taken together and form one charge on the land. 4 Edw. VII. c. 23, s. 118. All arrears to form one charge upon lands.

125.—(1) After the collector's roll has been returned to the treasurer of a township or village, and before such treasurer has furnished to the county treasurer the statement mentioned in section 122, arrears of taxes may be paid to such local treasurer; but after the said statement has been returned to the county treasurer no more money on account of the arrears then due shall be received by any officer of the municipality to which the roll relates. After return of roll who to receive taxes.

(2) The collection of arrears shall thenceforth belong to the treasurer of the county alone, and he shall receive payment of such arrears, and of all taxes on lands of non-residents, and he shall give a receipt therefor, specifying the amount paid, for what period, the description of the lot or parcel of land, and the date of payment, in accordance with the provisions of section 137. 4 Edw. VII. c. 23, s. 119. Collection of arrears to belong to county treasurer only.

126. The county treasurer and the treasurer of any municipality whose officers have power to sell lands for arrears of taxes may from time to time receive part payment of taxes returned to him as in arrears upon any land; but no such payment shall be received after the land has been advertised for sale for arrears of taxes. 4 Edw. VII. c. 23, s. 120. Receiving payments on account of arrears.

Duties of Treasurers, Clerks and Assessors in relation thereto Lists of lands three years in arrears for taxes to be furnished to clerks.

127. The treasurer of every county shall furnish to the clerk of each municipality in the county except those whose

officers have power to sell lands for arrears of taxes, and the treasurer of every such last-mentioned municipality shall furnish to the clerk of the municipality (or in cities having an assessment commissioner the treasurer of the city shall furnish to the assessment commissioner) a list of all the lands in the municipality in respect of which any taxes have been in arrear for the three years next preceding the first day of January in any year; and the said list shall be so furnished on or before the 1st day of February in every year, or fifteen days before such other date as may be fixed by any by-law passed under sections 56 to 60 for the assessor to begin to make his assessment roll and shall be headed in the words following: "*List of lands liable to be sold for arrears of taxes in the year 19*;" and, for the purpose of the computation of such three years the taxes for each year shall be deemed to have been in arrear on and from the 1st day of January in such year. 4 Edw. VII. c. 23, s. 121; 10 Edw. VII. c. 88, s. 21.

Clerks to keep the lists in their offices open to inspection, give copies to assessors notify occupants, etc.

128.—(1) The clerk of the municipality or assessment commissioner is hereby required to keep the said list, so furnished by the treasurer, on file in his office, subject to the inspection of any person requiring to see the same, and he shall also deliver a copy of such list to the assessor of the municipality in each year as soon as he is appointed; and it shall be the duty of the assessor to ascertain if any of the lots or parcels of land contained in such lists are occupied or built upon or are incorrectly described, and to notify such occupants and also the owners thereof, if known, whether resident within the municipality or not, upon their respective assessment notices, or otherwise, that the land is liable to be sold for arrears of taxes, and to enter in a column (to be reserved for the purpose) the words "*Occupied or Built upon and Parties Notified,*" or "*Not occupied,*" or "*Incorrectly described.*" or as the case may be; and all such lists shall be signed by the assessor, verified as provided in subsection 2, and returned to the clerk with the assessment roll, together with a memorandum of any error discovered therein; and the clerk shall compare the entries in the assessor's return with the assessment roll and report any differences to the assessor for verification and the clerk shall file such lists and any such memorandum in his office for public use, and shall furnish forthwith to the treasurer of the municipality, if the municipality is one whose officers have power to sell lands for arrears of taxes, or in other cases to the county treasurer, a true copy of the same certified to by him, under the seal of the corporation; and, every such list or copy thereof, shall be received in any court as evidence, in any case arising concerning the assessment of such lands.

Assessor's certificate.

(2) The assessor shall attach to each such list a certificate signed by him, and verified by oath or affirmation, in the form following:

I do certify that I have examined all the lots in this list named; and that I have entered the names of all occupants thereon, as well as the names of the owners thereof, when known; and that all the entries relative to each lot are true and correct, to the best of my knowledge and belief.

4 Edw. VII. c. 23, s. 122.

129.—(1) In cities of over 50,000 inhabitants on or before the first day of August, and in other cities and municipalities on or before the 15th day of September and, in the cases provided for by sections 56 to 60, one month before the date fixed for the completion of the collector's roll, the county treasurer or the treasurer of the municipality as the case may require shall return to the clerk of the proper municipality an account of all arrears of taxes due in respect of such occupied lands, or lands built upon, including the percentage chargeable under section 140.

Return of taxes due to be made by treasurer to clerk.

(2) The clerk of each municipality shall, in making out the collector's roll of the year, add such arrears of taxes to the taxes assessed against such occupied lands, or lands built upon for the current year; and, subject to the proviso contained in subsection 1 of section 109, relating to tenants, such arrears shall be collected in the same manner and subject to the same conditions as all other taxes entered upon the collector's roll. 4 Edw. VII. c. 23, s. 123.

Clerk to insert amount in collector's roll.

130. If, on an examination of the non-resident collector's roll or the return required under sections 128 and 129 of lands liable to be sold for taxes, or otherwise, it appears to the treasurer that any land liable to assessment has not been assessed for the current year, he shall report the same to the clerk of the municipality; thereupon, or if the same comes to the knowledge of the clerk in any other manner, the clerk shall proceed as provided in section 54. 4 Edw. VII. c. 23, s. 124.

Proceedings where any land is found not to have been assessed.

131. If it is found by the statement directed by section 122 to be made, or by the return made by the collector under section 119 or section 120, that the arrears of taxes upon occupied land, or land built upon, directed by section 129 to be placed on the collector's roll, or any part thereof, remain in arrear, such land shall be liable to be sold for such arrears, and shall be included in the next ensuing list prepared pursuant to section 142 of lands liable to be sold under the provisions of section 154, notwithstanding the same may be occupied in the year when such sale takes place; and such arrears need not again be placed upon the collector's roll for collection. 4 Edw. VII. c. 23, s. 125.

Liability of lands to sale if arrears are not paid, and when.

132. Any clerk or assessment commissioner, as the case may be, of any municipality who neglects to preserve the said list of lands in arrear for taxes, furnished to him by the treasurer, in pursuance of section 127, or to furnish copies of

Penalty for neglect to preserve list of lands in arrear for taxes.

such lists, as required, to the assessor, or neglects to return to the treasurer a correct list of the lands which have become occupied, or built upon, as required by section 128, or any assessor who neglects to examine the lands entered on his list, and to make returns in manner hereinbefore directed, shall incur a penalty not exceeding \$200. 10 Edw. VII. c. 88, s. 31.

Apportionment of taxes where land assessed in block.

133.—(1) Whenever it is shown to the Court of Revision or to the council of a municipality that taxes or rates are or have become due upon land assessed in one block, the court or council, upon the application by the treasurer of the municipality or by or on behalf of any person claiming to be the owner of one or more parcels of such land, may, after notice of the application to all owners, direct the apportionment of such taxes or rates upon the said parcels in proportion to their relative value at the time of the assessment, regard being had to all special circumstances, and the council may direct how any part payment made under section 126 is to be applied; and upon payment of the apportionment assigned to any parcel the same shall be a satisfaction of the taxes or rates thereon, or the court, or the council as the case may be, may make such other direction as the case may require. The provision herein contained shall be retroactive in its operation, but shall not apply to any lands which have been advertised for sale for taxes or rates. 4 Edw. VII. c. 23, s. 127 (1); 6 Edw. VII. c. 36, s. 16 (1); 10 Edw. VII. c. 88, s. 22.

Minute of apportionment for treasurer.

(2) Forthwith after an apportionment has been made the clerk shall transmit a copy of the minute or resolution to the treasurer; who, upon receipt thereof, shall enter the same in his books, and thereafter each lot or other subdivision of the land affected shall be liable only for the amount of taxes or rates apportioned thereto, and shall only be liable for sale for non-payment of the tax or rate so apportioned or charged against it. 4 Edw. VII. c. 23, s. 127 (2); 6 Edw. VII. c. 36, s. 16 (2).

Apportionment of taxes in cities having an assessment commissioner.

134. In cities having an assessment commissioner, where taxes or rates are or have become due upon land assessed in one block, the assessment commissioner, upon application by or on behalf of any person claiming to be an owner of one or more parcels of such land, may, after notice of the application to all the owners, make the apportionment in subsection 1 of section 133 mentioned; and thereafter the treasurer shall accept taxes or rates apportioned to any subdivision in satisfaction of the taxes or rates thereon, and each subdivision shall only be liable to sale for non-payment of the taxes or rates so apportioned to or charged against it. 4 Edw. VII. c. 23, s. 128; 6 Edw. VII. c. 36, s. 17; 10 Edw. VII. c. 88, s. 23.

135. An appeal may be had by any owner or owners to the Court of Revision from any apportionment made by any assessment commissioner, under section 134, and may be had by the municipality or by any owner or owners to the Judge of the County Court from any decision or apportionment of the Court of Revision given or made on appeal from the assessment commissioner under this section or given or made by the Court of Revision under section 133. 4 Edw. VII. c. 23, s. 129. Appeal.

136.—(1) The treasurer shall, on demand, give a written certified statement of the arrears due on any land, and he may charge twenty-five cents for the search and certified statement on each separate parcel not exceeding four, and, for every additional parcel, a further fee of ten cents; but he shall not make any charge to any person who forthwith pays the taxes. If demanded, treasurer to give a written statement of arrears.

(2) The certified statement aforesaid may be according to Form 11. 4 Edw. VII. c. 23, s. 130.

137. The treasurer of every county shall keep a triplicate blank receipt book, and on receipt of any sum of money for taxes on land, shall deliver to the person making payment one of such receipts, and shall deliver to the county clerk the second of the set, with the corresponding number, retaining the third of the set in the book, the delivery of such receipts to be made to the clerk at least every three months; and the county clerk shall file such receipts, and, in a book to be kept for that purpose, shall enter the name of the person making payment; the lot on which payment is made; the amount paid; the date of payment, and the number of the receipt; and the auditors shall examine and audit such books and accounts at least once in every twelve months; and in cities, towns and other municipalities having power to sell lands for non-payment of taxes the treasurer thereof shall keep a duplicate blank receipt book, and on receipt of any sum of money for taxes on land shall deliver to the person making the payment one of such receipts, retaining the second of the set in the book; and the auditors shall examine and audit the said book and accounts at least once in every year. 4 Edw. VII. c. 23, s. 131. County treasurers, etc., to keep triplicate blank receipt books.

Audit of books, etc.

138. If any person produces to the treasurer, as evidence of payment of any tax, any paper purporting to be a receipt of a collector, school trustee or other municipal officer, he shall not be bound to accept the same until he has received a report from the clerk of the municipality interested, certifying the correctness thereof, or until he is otherwise satisfied that such tax has been paid. 4 Edw. VII. c. 23, s. 132. As to pretended receipt, etc.

139. The treasurer of every county shall keep a separate book for each township and village, in which he shall enter all the lands in the municipality on which it appears from the Lands on which taxes unpaid to be entered in certain books by Treasurer.

returns made to him by the clerk and from the collector's roll returned to him, that there are any taxes unpaid, and the amounts so due; and he shall, on the 1st day of May in every year, complete and balance his books by entering against every parcel of land, the arrears, if any, due at the last settlement, and the taxes of the preceding year which remain unpaid, and he shall ascertain and enter therein the total amount of arrears, if any, chargeable upon the land at that date. 4 Edw. VII. c. 23, s. 133.

Percentage to be added to arrears of taxes.

140.—(1) In cities having a population of 100,000 or more, at the balance to be made on the 1st day of May in every year or as soon thereafter as the balance is ascertained, the treasurer shall add to the whole amount of taxes due in respect of any parcel of land the legal rate of interest, but where, by the by-laws of the municipality, taxes are payable by instalments and a percentage has been added for default in payment of any instalment, the treasurer shall only add to the amount of taxes remaining unpaid upon the 1st day of May the legal rate of interest less what has already been added for such default.

Ten per cent. to be added to arrears yearly.

(2) In other municipalities at the balance to be made on the 1st day of May in every year, the treasurer, or the county treasurer as the case may require, shall add ten per cent to the arrears then due in respect of any parcel of land; but in the case of a municipality by the by-laws of which taxes are payable in bulk or by instalments with a percentage added for default the treasurer shall only add a further percentage, so that the whole addition shall amount to ten per cent. of the arrears. 4 Edw. VII. c. 23, s. 134.

SALE OF LANDS FOR TAXES.

What lands only to be sold.

141. The treasurer shall not sell any lands for taxes which have not been included in the list furnished by him pursuant to section 127 to the clerks of the municipalities in the month of January preceding the sale nor any of the lands which have been returned to him under the provisions of section 128 as being occupied or built upon except land the arrears for which have been placed on the collector's roll of the preceding year, and have been again returned unpaid and are still in arrear in consequence of insufficient distress being found on the land. 4 Edw. VII. c. 23, s. 135.

When lands to be sold for taxes.

142.—(1) Where a part of the tax on any land is in arrear for three years as provided by section 127 and subject to the provisions of section 141, the treasurer shall, unless otherwise directed by by-law of the council, submit to the warden of the county a list in duplicate of all the lands liable under the provisions of this Act to be sold for taxes, with the amount of arrears against each lot set opposite to the same, and the name and address of the owner, if known, and the

warden shall authenticate each of such lists by affixing thereto the seal of the corporation and his signature; and one of such lists shall be deposited with the clerk of the county, and the other shall be returned to the treasurer with a warrant thereto annexed, under the hand of the warden and the seal of the county, commanding the treasurer to levy upon the land for the arrears due thereon, with his costs.

Arrears due for three years to be levied by warrant of warden to treasurer.

(2) In municipalities whose officers have power to sell lands for arrears of taxes the treasurer may add to the taxes shewn in the list of lands liable to be sold for taxes, any taxes which have fallen due since those shown in the lists furnished by the treasurer to the clerk under section 127, and have been returned by the collector to him as provided in section 119, and the said lands may be sold as if such last mentioned taxes had been included in the statement furnished to him by the clerk, under section 127. 4 Edw. VII. c. 23, s. 136.

Treasurer to have power to add arrears accruing after return.

143. The treasurer shall, in each case, add to the arrears his commission or other lawful charges, and the costs of publication. 4 Edw. VII. c. 23, s. 137.

Expenses added to arrears.

144. The council of a county or municipality whose officers have power to sell lands for arrears of taxes may by by-law passed for that purpose, from time to time, direct that no warrant shall issue for the sale of lands for taxes until after the expiration of a longer period than that provided by section 142, and may also direct that such lands only be included in the warrant as are chargeable with arrears exceeding a certain sum to be named in the by-law. 4 Edw. VII. c. 23, s. 138.

By-laws extending period of three years, etc.

145. In the list annexed to every warrant the lands mentioned therein shall be distinguished as patented, unpatented, or under lease or license of occupation from the Crown or municipality and the interest therein, if any, of the Crown or of the municipality shall be specially mentioned. 4 Edw. VII. c. 23, s. 139.

Distinguishing lands in list annexed to warrant.

146. The county treasurer may, from time to time, correct any clerical error which he himself discovers or which may be certified to him by the clerk of any municipality. 4 Edw. VII. c. 23, s. 140.

Correction of errors by treasurer.

147. If there are to the knowledge of the treasurer goods and chattels liable to distress upon any land in arrear for taxes, he shall levy the arrears of taxes and the costs by distress, and shall have the same authority to collect by distress as a collector has under the provisions of this Act; and the provisions of section 109 shall apply thereto; but no sale of the land shall be invalid by reason of the treasurer not having distrained, though there were on the land goods and chattels liable to distress before or at the time of sale. 4 Edw. VII. c. 23, s. 141.

Where distress on premises treasurer may distrain.

Treasurer's
duty on re-
ceiving war-
rant to sell.

148. A treasurer shall not be bound to make inquiry before effecting a sale of land for taxes, to ascertain whether or not there is any distress upon the land; nor shall he be bound to inquire into or form any opinion of the value of the land. 4 Edw. VII. c. 23, s. 142.

Treasurer to
prepare list of
lands to be
sold and
advertise.

149.—(1) The treasurer shall prepare a copy of the list of lands annexed to the warrant, and shall add thereto, in a separate column, a statement of the proportion of costs chargeable on each lot for advertising, and for his commission or other lawful charges, distinguishing the lands as patented, unpatented, or under lease or license of occupation from the Crown, and shall cause such list to be published once a week for four weeks in the *Ontario Gazette*, and in some newspaper published within the county once a week, for thirteen weeks, and, in the case of a union of counties, in each county of the union, if there be a newspaper published in each county, and if not, in the county or counties of the union in which a newspaper is published, or if none be so published, in some newspaper published in some adjoining county. And in case there is a newspaper published in any municipality in which lands are situate, which are included in such list, or if none be so published, then in case there is a newspaper published in an adjoining municipality in said county the treasurer shall further cause a list of the lands so situate to be published in such newspaper once a week for four weeks immediately prior to the sale.

Notice to be
given in such
advertisement.

(2) The advertisement shall contain a notification, that unless the arrears and costs are sooner paid, the treasurer will proceed to sell the lands for the taxes, on a day and at a place named in the advertisement.

Publication
notice of
tax sale.

(3) Instead of advertising as in this section is provided, the treasurer may have the advertisement published in the *Ontario Gazette* as hereinbefore provided, and then publish in at least two newspapers, published as in subsection 1 provided, a notice announcing that the list of lands for sale for arrears of taxes has been prepared, and that copies thereof may be had in his office, and that the list is being published in the *Ontario Gazette* (inserting the dates of such publication), and that in default of payment of the taxes, the lands will be sold for taxes. 4 Edw. VII. c. 23, s. 143.

Time of sale.

150. The day of the sale shall be more than ninety-one days after the first publication of the list in the *Ontario Gazette*. 4 Edw. VII. c. 23, s. 144.

Notice to be
posted up.

151. The treasurer shall also post a printed copy of the advertisement published in the *Ontario Gazette* in some convenient and public place at the court house of the county or district, at least three weeks before the time of sale. 4 Edw. VII. c. 23, s. 145.

152.—(1) For the purpose of tax sales the Lieutenant-Governor in Council may by order in council, divide a Provisional Judicial District, and the council of any county may by by-law divide the county into tax sale districts, each of which may contain one or more municipalities. Tax sale districts.

(2) The order in council or by-law may provide that thereafter the sales of land situate therein for arrears of taxes shall be held by the treasurer at such place in the tax sale district as may be named in the order in council or by-law.

(3) Where any such order in council or by-law is passed, provision shall be made therein, or by further order in council or by-law, respecting the payment to the treasurer of his travelling and other expenses connected with his attending tax sales.

(4) Every advertisement or notice of a tax sale shall state the name or number of the tax sale district and the place therein at which the sale will be held. 4 Edw. VII. c. 23, s. 146.

153. If at any time appointed for the sale of the lands no bidders appear, the treasurer may adjourn the sale from time to time. 4 Edw. VII. c. 23, s. 147. Adjourning sale, if no bidders.

154.—(1) If the taxes have not been previously collected, or if no person appears to pay the same at the time and place appointed for the sale, the treasurer shall sell by public auction so much of the land as is sufficient to discharge the taxes, and all lawful charges incurred in and about the sale and the collection of the taxes, selling in preference such part as he may consider best for the owner to sell first; and, in offering or selling such lands, it shall not be necessary to describe particularly the portion of the lot which is to be sold, but it shall be sufficient to say that he will sell so much of the lot as may be necessary to secure the payment of the taxes due; and the amount of taxes stated in the advertisement of sale shall, in all cases, be held to be the correct amount due. Made in which the lands shall be sold by the treasurer.

(2) If the treasurer fails at such sale to sell any land for the full amount of arrears of taxes due, including the full amount of commission and other lawful charges and costs added under section 143, he shall at such sale adjourn the same until a day then to be publicly named by him, not earlier than one week, nor later than three months thereafter, of which adjourned sale he shall give notice by public advertisement in the local newspaper, or in one of the local papers in which the original sale was advertised, and on such day he shall sell such lands unless otherwise directed by the council of the municipality in which they are situate, for any sum he can realize, and shall accept such sum as full payment of such arrears of taxes; but the owner of any land so sold for less than the full amount chargeable against the When land does not sell for full amount of taxes.

same as aforesaid shall not be at liberty to redeem the same, except upon payment of the full amount of taxes due, together with the expenses of sale and the ten per cent. provided for in section 170.

Purchase by
municipalities
of land sold
for taxes.

Advertising
the municipa-
lity's inten-
tion to buy.

Redemption in
such case.

Mode of
selling for
taxes in York,
Scarborough
and
Etobicoke.

Provided,

(3) If the price offered for any land at the adjourned sale is less than the amount due for arrears of taxes, charges and costs, it shall be lawful for the municipality to purchase the same for the amount due, provided that previous notice by public advertisement in the local newspaper or in one of the local newspapers in which the original sale was advertised, of intention so to do has been given by the treasurer; but the owner of any land so purchased by the municipality shall not be at liberty to redeem the same except upon payment of the full amount of the taxes due, together with the expenses of sale, and also the taxes including the local improvement rates and interest thereon which would have accrued against the property if it had remained the property of the former owner, and been liable for ordinary taxation; and if the value thereof is not shown upon the assessment roll, such taxes shall be computed at the rate fixed by by-law for each year for which such taxes are payable upon the value placed thereon upon the assessment roll for the last preceding year in which it was assessed; and the local improvement rates shall be computed at the rate fixed in the by-law by which the same were rated or imposed, and upon the frontage as shown upon the list of properties and the frontages thereof as settled by the Court of Revision for such local improvement. 4 Edw. VII. c. 23, s. 148.

155.—(1) The treasurers of the Townships of York, Scarborough and Etobicoke shall not be obliged to sell for taxes, only a portion of any vacant lot originally laid out according to any registered plan, the frontage of which lot liable to be sold for taxes does not exceed fifty feet, but may in all such cases sell the whole of such lot or the whole of that part thereof (as the case may be) in respect of which taxes are in arrear, for the best price that may be offered by the bidders at the sale; and any money obtained by the treasurer as the price of any such lot shall be applied firstly in paying the arrears of taxes and interest and lawful expenses due in respect of such lot, and the balance, if any, shall be paid by such treasurer to the owner of such lot or to such other person as may be authorized by law to receive the same less ten per cent. of the sale price and less such charges and expenses as the treasurer may pay or incur in satisfying himself of the right of such owner or other person to receive the same. And it shall be the duty of the person claiming such balance to produce to the treasurer proof of his or her right to recover the same; provided, however, that in the event of redemption the person redeeming shall pay ten per cent. upon the whole amount realized in respect thereof notwithstanding section 170.

(2) Subsection 1 shall not in any way alter or affect the Act passed in the 58th year of the reign of Her late Majesty Queen Victoria, chaptered 94, intituled *An Act respecting the Township of York*, or the by-laws confirmed by the said Act. 4 Edw. VII. c. 23, s. 149.

58 V. c. 94
not affected.

156. If a purchaser fails to pay his purchase money immediately, the treasurer shall forthwith again put up the property for sale. 4 Edw. VII. c. 23, s. 150.

When purchaser fails to pay purchase money.

157.—(1) Where the Crown, whether as represented by the Government of Canada or the Government of the Province of Ontario, has an interest in any land in respect of which taxes are in arrear, the interest only of persons other than the Crown therein shall be liable to be sold for arrears of taxes.

Land in which the Crown has an interest.

(2) Where the treasurer so sells the interest of any person, it shall be distinctly expressed, in the tax deed to be made under this Act to the purchaser, that the sale is only of the interest of such person in the land, and (whether so expressed or not) the tax deed shall in no wise affect the interest or rights of the Crown in the land sold, and shall give the purchaser the same interest and rights only in respect of the land as the person had whose interest is being sold.

(3) Where the interest so sold of any person is that of a lessee, licensee or locatee, the tax deed shall be valid without requiring the consent of the Minister of Lands, Forests and Mines. 4 Edw. VII. c. 23, s. 151.

158. No person shall be entitled to purchase at a sale for taxes, under section 154 or from a municipality which has purchased land thereunder, more unpatented land in the free grant districts than a locatee is entitled to obtain or hold under Part II of *The Public Lands Act*. 4 Edw. VII. c. 23, s. 152.

Land purchased at tax sales not to exceed limit fixed by Rev. Stat. c. 28.

159. No sale for taxes shall be made of unpatented land in the free grant districts where the taxes due thereon are less than \$10, if the lands have not been before the 27th day of May, 1893, advertised for sale, nor where no *bona fide* improvements have been made by or on behalf of the locatee. This section shall not apply to lands purchased by municipalities prior to the 27th day of May, 1893, under the enactments consolidated in section 154. 4 Edw. VII. c. 23, s. 153.

Sales not to be made where taxes less than \$10 or no improvements made.

160. All lands in the free grant districts purchased under sale for taxes shall be subject to all the terms and conditions as to settlement or otherwise required by Part II of *The Public Lands Act*, unless under special circumstances the Minister of Lands, Forests and Mines sees fit to dispense therewith in whole or in part. 4 Edw. VII. c. 23, s. 154.

Lands purchased to be subject to conditions of Rev. Stat. c. 28.

Sale of interest of lessee or tenant of municipal property.

161. If the treasurer sells any interest in land of which the fee is in the city, town or other municipality in respect of which the taxes accrue, he shall only sell the interest therein of the lessee or tenant; and it shall be so distinctly expressed in the tax deed. 4 Edw. VII. c. 23, s. 155.

Sale of lands for taxes not to affect collection of other rates.

162. No sale of lands for taxes or for rates under a drainage or local improvement by-law shall invalidate or in any way affect the collection of a rate which has been assessed against or imposed or charged upon such lands prior to the date of the sale, but which accrues or becomes due and payable after the rates or taxes in respect of which the sale is had became due and payable or after the sale. 4 Edw. VII. c. 23, s. 156.

Certificate of Sale—Tax Deed.

Treasurer selling to give purchaser a certificate of land sold.

163. The treasurer, after selling any land for taxes, shall give a certificate under his hand to the purchaser, stating distinctly what part of the land, and what interest therein, have been sold, or stating that the whole lot or estate has been so sold, and describing the same, and also stating the quantity of land, the sum for which it has been sold, and the expenses of sale, and further stating that a deed conveying the same to the purchaser or his assigns, according to the nature of the estate or interest sold, with reference to sections 154 and 157, will be executed by the treasurer and warden on demand, at any time after the expiration of the period hereinafter provided for redemption. 4 Edw. VII. c. 23, s. 157.

Purchaser of lands deemed owner for certain purposes.

164.—(1) The purchaser shall, on the receipt of the treasurer's certificate of sale, become the owner of the land, so far as to have all necessary rights of action and powers for protecting the same from spoliation or waste, until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber growing upon the land, or otherwise injure the land, nor shall he do so himself, but he may use the land without deteriorating its value.

Proviso.

(2) The purchaser shall not be liable for damage done without his knowledge to the property during the time the certificate is in force. 4 Edw. VII. c. 23, s. 158.

Effect of tender of arrears, etc.

165. From the time of a tender to the treasurer of the full amount of redemption money required by this Act, the purchaser shall cease to have any further right in or to the land in question. 4 Edw. VII. c. 23, s. 159.

Treasurer's commission.

166. Every treasurer shall be entitled to two and one-half per centum commission upon the sums collected by him, as aforesaid, except that where the taxes against any parcel

of land are less than \$10, the treasurer shall be entitled to charge, in lieu of his commission, 25 cents; but where the treasurer is paid a salary for his services such commission may, by arrangement with the council, be paid into the funds of the municipality like any other revenue of the municipality. 4 Edw. VII. c. 23, s. 160.

167. Where land is sold by a treasurer according to the provisions of section 149, and following sections of this Act, he may add the commission and other charges which he is authorized by this Act to charge for the services above mentioned, to the amount of arrears on those lands in respect of which such services have been severally performed, and in every case he shall give a statement in detail with each certificate of sale, of the arrears and costs incurred. 4 Edw. VII. c. 23, s. 161.

Fees, etc., on sales of land.

168. The treasurer shall, in all certificates and deeds given for lands sold at such sale, give a description of the part sold with sufficient certainty, and if less than a whole lot is sold, then he shall give such a general description as may enable a surveyor to lay off the piece sold on the ground; and he may make search, if necessary, in the registry office, to ascertain the description and boundaries of the whole parcel, and he may also obtain a surveyor's description of such lots, to be taken from the registry office or the government maps, where a full description cannot otherwise be obtained, such surveyor's fee not to exceed \$1; and the charges so incurred shall be included in the account and paid by the purchaser of the land sold, or the person redeeming the same. 4 Edw. VII. c. 23, s. 162.

Expenses of search in registry office for description, etc.

169. Except as hereinbefore provided, the treasurer shall not be entitled to any other fees or emoluments whatever for any services rendered by him relating to the collection of arrears of taxes on lands. 4 Edw. VII. c. 23, s. 163.

Treasurer entitled to no other fees.

170. Subject to the provisions of subsections 2 and 3 of section 154, the owner of any land sold for taxes, or his heirs, executors, administrators or assigns, or any other person, may, at any time within one year from the day of sale, exclusive of that day, redeem the estate sold by paying or tendering to the county treasurer for the use and benefit of the purchaser or his legal representatives, the sum paid by him, together with ten per cent. thereon; and the treasurer shall give to the person paying such redemption money, a receipt stating the sum paid and the object of payment; and such receipt shall be evidence of the redemption. 4 Edw. VII. c. 23, s. 164.

Owners may within one year redeem estate sold by paying purchase money and 10 per cent. thereon.

171.—(1) If the land is not redeemed within the period allowed for redemption, being one year from the day of sale exclusive of the day of sale as aforesaid, then the treasurer

Deed of sale, if not redeemed.

before the execution of the tax deed shall make or cause to be made search in the Registry Office and in the Sheriff's Office and ascertain whether or not there are mortgages or other incumbrances affecting the lands sold and who is the registered owner of the land.

Notice to incumbrancers.

(2) The treasurer shall forthwith send to each incumbrancer (if any) and to the registered owner by registered letter mailed to the address of such incumbrancer or owner if known to the treasurer, and if such address is not known to the treasurer then to any address of such incumbrancer or owner appearing in the incumbrance or deed a notice stating that the incumbrancer or owner is at liberty within thirty days from the date of the notice to redeem the estate sold by paying to the treasurer the amount of the purchase money together with 15 per cent. thereon added thereto and the amount of the charges for the searches aforesaid and postage and \$1 for the notice, the amount aforesaid to be specified in the notice.

Receipt if arrears paid.

(3) If within the time aforesaid payment of the said amount is made by any such incumbrancer or by the owner of the land the treasurer shall give to the person making the payment a receipt stating the sum paid and the object of the payment, and the same shall be evidence of the redemption, and any incumbrancer making the payment may add the amount to his debt.

Who to be entitled to receipt.

(4) In case of payment by the owner the receipt aforesaid shall be given to him and in case of payment by one or more incumbrancers and not by the owner, the receipt shall be given to that incumbrancer who is first in priority. The amount paid by other persons shall be repaid to them.

Payment of redemption money to tax purchaser.

(5) The redemption money after deducting the charges aforesaid for searches, postage and notice shall be paid by the treasurer to the tax purchaser or his assigns or other legal representatives.

Execution and delivery of deed.

(6) If the redemption money is not paid within the time aforesaid the treasurer upon payment of the said charges for searches, postage and notice and \$1 for the deed, shall with the warden execute and deliver to the purchaser or his assigns or other legal representatives a tax deed in duplicate of the land sold. 4 Edw. VII. c. 23, s. 165 (1-6).

Deed may include several lots.

(7) Such deed, if requested, may include any number of lots not exceeding four, which are to be conveyed to the same person. 6 Edw. VII. c. 36, s. 18.

Meaning of "treasurer" and "warden."

172. The words "treasurer" and "warden" in the preceding section shall mean the person who at the time of the execution of the deed in such section mentioned holds the said office. 4 Edw. VII. c. 23, s. 166.

173. The tax deed shall be according to Form 12, or to the same effect and shall state the date and cause of the sale, and the price, and shall describe the land according to the provisions of section 168, and shall have the effect of vesting the land in the purchaser, his heirs, assigns or legal representatives, in fee simple or otherwise, according to the nature of the estate or interest sold; and no such deed shall be invalid for any error or miscalculation in the amount of taxes or interest thereon in arrear, or any error in describing the land as "patented" or "unpatented" or "held under a license of occupation" or "held under lease" or otherwise. 4 Edw. VII. c. 23, s. 167.

Contents of deed and effect thereof.

174. As respects land sold for taxes before the 1st day of January, 1851, on the receipt by the registrar of the proper county or place of a certificate of the sale to the purchaser under the hand and seal of office of the sheriff, stating the name of the purchaser, the sum paid, the number of acres and the estate or interest sold, the lot or tract of which the same forms part, and the date of the sheriff's conveyance to the purchaser, his heirs, executors, administrators or assigns, and on production of the conveyance from the sheriff to the purchaser, his heirs, executors, administrators or assigns, such registrar shall register any sheriff's deed of land sold for taxes before the 1st day of January, 1851; and the mode of such registry shall be the entering on record a transcript of such deed or conveyance. 4 Edw. VII. c. 23, s. 169.

On what certificate registrars to register sheriff's deeds of lands sold for taxes before 1851.

175. As respects land sold for taxes after the 1st day of January, 1851, and prior to the 1st day of January, 1866, the sheriff shall also give the purchaser or his assigns, or other legal representatives, a certificate under his hand and seal of office of the execution of the deed, containing the particulars in the last section mentioned; and such certificate, for the purpose of registration in the registry office of the proper registry division of any deed of lands so sold for taxes, shall be deemed a memorial thereof; and the deed shall be registered, and a certificate of the registry thereof shall be granted by the registrar, on production to him of the deed and certificate, without further proof; and the registrar shall, for the registry and certificate thereof, be entitled to seventy cents and no more. 4 Edw. VII. c. 23, s. 170.

Sheriff to give certificate of execution of conveyances after January 1st, 1851, and before 1st January, 1866, for registration.

176. The treasurer shall enter in a book, which the county council or council of the city or town as the case may be shall furnish, a full description of every parcel of land conveyed by him to purchasers for arrears of taxes, with an index thereto, and such book, after such entries have been made therein, shall, together with all documents relating to lands sold for taxes be by him kept among the records of his office. 4 Edw. VII. c. 23, s. 171.

Treasurer to enter in a book descriptions of lands conveyed to purchasers.

Deed to be binding if land not redeemed in one year.

177. If any part of the taxes for which any land has been sold, in pursuance of any Act heretofore in force in Ontario or of this Act, had at the time of the sale been in arrear for three years as mentioned in section 127, and the land is not redeemed in one year after the sale, such sale, and the official deed to the purchaser (provided the sale was openly and fairly conducted) shall notwithstanding any neglect, omission or error of the municipality or of any agent or officer thereof in respect of imposing or levying the said taxes or in any proceedings subsequent thereto be final and binding upon the former owner of the land and upon all persons claiming by, through or under him, it being intended by this Act that the owner of land shall be required to pay the taxes thereon within three years after the same are in arrear or redeem the land within one year after the sale thereof; and in default of the taxes being paid or the land being redeemed as aforesaid, the right to bring an action to set aside the said deed or to recover the said land shall be barred. 4 Edw. VII. c. 23, s. 172.

Deed valid if not questioned within a certain time.

178. Wherever land is sold for taxes and a tax deed thereof has been executed, the sale and the tax deeds shall be valid and binding, to all intents and purposes, except as against the Crown, unless questioned before some Court of competent jurisdiction within two years from the time of sale. 4 Edw. VII. c. 23, s. 173.

Certain treasurer's deeds not to be invalid if the sale is valid.

179. In all cases where land has been validly sold for taxes, the conveyance by the officer who made the sale, or by his successors in office, shall not be invalid by reason of the statute under the authority whereof the sale was made having been repealed at and before the time of such conveyance, or by reason of the officer who made the sale having gone out of office. 4 Edw. VII. c. 23, s. 174.

Rights of entry adverse to tax purchaser.

180. In all cases where land is sold for arrears of taxes whether such sale is or is not valid, then so far as regards rights of entry adverse to a *bona fide* claim or right, whether valid or invalid, derived mediately or immediately under such sale, section 10 of *The Conveyancing and Law of Property Act* shall not apply, to the end and intent that in such cases the right or title of a person claiming adversely to any such sale shall not be conveyed where any person is in occupation adversely to such right or title, and that in such cases the Common Law and sections 2, 4 and 6 of the statute passed in the 32nd year of the reign of King Henry VIII., and chaptered 9, be revived, and the same are and shall continue to be revived. 4 Edw. VII. c. 23, s. 175.

Rev. Stat. c. 109.

Common Law and 32 H. VIII. c. 9, ss. 2, 4 and 6, revived.

Adjustment of damages when sale held to be invalid.

181.—(1) In all cases, not being within any of the exceptions and provisions of subsection 3, where land having been legally liable to be assessed for taxes, is sold for arrears of taxes, then in case an action is brought for the recovery of

the land and the sale is held to be invalid, damages shall be assessed for the defendant for the amount of the purchase money at the sale and interest thereon, and of all taxes paid by the defendant in respect of the lands since the sale and interest thereon, and of the value of any improvements made by the defendant before the commencement of the action, or by any person through or under whom he claims, less all just allowances for the timber sold off the lands, and all other just allowances to the plaintiff, and the value of the land to be recovered shall also be assessed less the value of any such improvements.

(2) If a judgment is pronounced for the plaintiff, no writ of possession shall issue until the expiration of one month thereafter nor until the plaintiff has paid into Court for the defendant the amount of such damages; or, if the defendant desires to retain the land, he may retain it, on paying into Court within the said period of one month, or on or before any subsequent day to be appointed by the Court, the value of the land as assessed at the trial; after which payment no writ of possession shall issue, but the plaintiff on filing in Court for the defendant a sufficient release and conveyance to the defendant of his right and title to the land in question, shall be entitled to the money so paid in by the defendant.

The plaintiff to pay damages into Court before writ of possession issues, or tax purchaser may elect to retain the land on paying its value.

(3) This section shall not apply in the following cases: When section not to apply;

(a) If the taxes for non-payment whereof the land was sold have been fully paid before the sale; if taxes paid before sale;

(b) If, within the period limited by law for redemption the amount paid by the purchaser, with all interest payable thereon, has been paid or tendered to the person entitled to receive such payment, with a view to the redemption of the lands; if land redeemed;

(c) Where on the ground of fraud or evil practice by the purchaser at such sale, a Court would grant equitable relief. 4 Edw. VII. c. 23, s. 176. in case of fraud.

182.—(1) In any of the cases named in the next preceding section wherein the plaintiff is not tenant in fee simple, or fee tail, the payment into Court to be made as aforesaid, of the value of the land, by the defendant desiring to retain the land, shall be into the Supreme Court; and the plaintiff and all parties entitled to and interested in the said lands, as against the purchaser at such sale for taxes, on filing in the Supreme Court a sufficient release and conveyance to the defendant of their respective rights and interests in the land, shall be entitled to the money so paid in such proportions and shares as to the Supreme Court, regarding the interests of the various parties, seems proper. Where the plaintiff is not tenant in fee, or in tail, the value of the land to be paid into Supreme Court.

Payment into court where the defendant is not tenant in fee.

(2) In any of such cases wherein the defendant is not tenant in fee simple or fee tail, the payment of damages into Court to be made as aforesaid by the plaintiff shall be into the Supreme Court. 4 Edw. VII. c. 23, s. 177.

Any other person interested in value assessed if defendant does not.

183.—(1) If the defendant does not pay into Court the value of the land assessed as aforesaid, within the period of one month, or on or before any subsequent day appointed by the Court, as mentioned in subsection 2 of section 181, any other person interested in the land under the sale or conveyance for taxes may, within ninety days after the date of the pronouncing of the judgment in subsection 2 of section 181 mentioned, or before any subsequent day appointed by the Court as in said subsection mentioned, for payment by the defendant, pay into Court the said value of the land; and till the expiration of the time within which such payment may be made, and after such payment, no writ of possession shall issue.

The payer to have a lien for such proportion as exceeds his interest.

(2) The defendant or other person so paying in shall be entitled as against all others interested in the land under the sale or conveyance for taxes, to a lien on the land for such amount as exceeds the proportionate value of his interest enforceable in such manner and in such shares and proportions as to the Supreme Court, regarding the interests of the various parties, and on hearing the parties, seems fit. 4 Edw. VII. c. 23, s. 178.

How the owner can obtain the value of the land paid in.

184. In case the defendant or any other person interested pays into Court in manner aforesaid, the plaintiff shall be entitled to the amount so paid in, on filing in Court a sufficient release and conveyance to the person so paying in, of all his right and title to the lands, in which release and conveyance it shall be expressed that the same is in trust for such person, to secure his lien as aforesaid. 4 Edw. VII. c. 23, s. 179.

How the value of improvements, etc., paid in can be obtained.

185. If the value of the land is not paid into Court as above provided, the damages paid into the Supreme Court shall be paid out to the various persons, who, if the sale for taxes were valid would be entitled to the land, in such shares and proportions as to the Supreme Court regarding the interests of the various parties, seems fit. 4 Edw. VII. c. 23, s. 180

Provisions as to costs in cases where value of the land and improvements, etc., only in question.

186.—(1) In all actions for the recovery of land in which both the plaintiff (if his title were good) would be entitled in fee simple or fee tail, and the defendant (if his title were good) would be also so entitled, if the defendant, at the time of appearing gave notice in writing to the plaintiff in such action or to his solicitor named in the writ of the amount claimed, and that on payment of such amount, the defendant or person in possession will surrender the possession to the plaintiff; or that he desired to retain the land, and was ready

and willing to pay the Court a sum mentioned in the said notice as the value of the land, and that the defendant did not intend at the trial to contest the title of the plaintiff; and if the jury, or the Judge, if there be no jury, before whom the action is tried, assess damages for the defendant as provided in the next preceding five sections and it satisfactorily appears that the defendant does not contest the action for any other purpose than to retain the land on paying the value thereof, or to obtain damages, the Judge before whom the action is tried shall certify such fact upon the record, and thereupon the defendant shall be entitled to the costs of the defence in the same manner as if the plaintiff had been nonsuited on the trial, or a verdict had been rendered for the defendant.

(2) If on the trial it is found that such notice was not given as aforesaid, or if the Judge or jury assess for the defendant a less amount than that claimed in the notice, or find that the defendant had refused to surrender possession of the land after tender made of the amount claimed, or (where the defendant has given notice of his intention to retain the land), that the value of the land is greater than the amount mentioned in the notice, or that he has omitted to pay into Court the amount mentioned in the notice for thirty days after the plaintiff had given to the defendant a written notice that he did not intend to contest the value of the land, the Judge shall not certify, and the defendant shall not be entitled to the costs of the defence, but shall pay costs to the plaintiff; and upon the trial of any action after such notice, no evidence shall be required in proof of the title of the plaintiff. 4 Edw. VII. c. 23, s. 181.

187. In any case in which the title of the tax purchaser is not valid, or in which no remedy is otherwise provided by this Act, the tax purchaser shall have a lien on the lands for the purchase money paid at the sale, and interest thereon at the rate of ten per cent. per annum, and for the taxes paid by him since the sale and interest thereon at the rate aforesaid, to be enforced against the land in such proportions as regards the various owners, and in such manner as the Supreme Court thinks proper. 4 Edw. VII. c. 23, s. 182.

Tax purchaser without other remedy whose title is invalid to have a lien on the land for purchase money, etc.

188. No valid contract entered into between any tax purchaser and original owner, in regard to any land sold or assumed to have been sold for taxes, as to purchase, lease or otherwise, shall be annulled or interfered with by this Act, but such contract and all consequences thereof, as to admission of title or otherwise shall remain in force as if this Act had not been passed. 4 Edw. VII. c. 23, s. 183.

Contracts between tax purchaser and original owner continued.

189. Nothing in the next preceding nine sections of this Act shall affect the right or title of the owner of any land sold for taxes, or of any person claiming through or under him, where such owner at the time of the sale was in occupa-

Sections 186 to 188 not to apply where the owner has occupied since sale.

tion of the land, and the same has since the sale been in the occupation of such owner or of those claiming through or under him. 4 Edw. VII. c. 23, s. 184.

Construction of "Tax-purchaser," "Original owner."

190. In the construction of the next preceding eleven sections of this Act, occupation by a tenant shall be deemed the occupation of the reversioner; and the words "tax purchaser" shall apply to any person who purchases at any sale under colour of any statute authorizing sale of land for taxes and shall include and extend to all persons claiming through or under him; and the words "original owner" shall include and extend to any person who, at the time of such sale, was interested in or entitled to the land sold, or assumed to be sold, and to all persons claiming through or under him. 4 Edw. VII. c. 23, s. 185.

ARREARS OF TAXES IN CITIES AND TOWNS.

Collections of arrears of taxes in cities or towns.

191. In cities and towns arrears of taxes shall be collected and managed in the same way as is hereinbefore provided in the case of other municipalities; and for such purposes the municipal officers of cities and towns shall perform the same duties and have the same powers as the like officers in other municipalities under sections 122 to 190; and the treasurer and mayor of every city or town shall, for such purposes, also perform the like duties as are hereinbefore, in the case of other municipalities, imposed on the county treasurer and warden respectively, and shall have the like powers; and words referring to the county treasurer or warden shall as to a city or town be taken and deemed to refer to the mayor and treasurer of such city or town. Provided, however, that in cities and towns the performance of any such duty after the date or within a longer time than hereinbefore set out shall not render any proceeding under this Act invalid or illegal so long as the provisions of this Act are in other respects duly complied with. 4 Edw. VII. c. 23, s. 186.

Proviso.

ARREARS OF TAXES IN CERTAIN TOWNSHIPS.

Sale of land for taxes in certain townships.

192.—(1) All powers conferred upon cities and towns by section 191, or any of the sections referred to in that section, and all duties imposed by said sections upon the officers of such cities and towns, and the mayors thereof, shall hereafter be vested in and apply to the Townships of York, Scarborough and Etobicoke, in the County of York, to the Township of Bertie in the County of Welland, and to the reeves of said townships, and for the purposes of the collection of arrears of taxes on lands therein and the sale of such lands for taxes, the said townships shall be considered as towns, and wherever the word "town" occurs in any of the said sections it shall be held to apply to and include the said townships, and wherever the word "mayor" occurs in

the said sections it shall be held to apply to the reeve of each of the said townships for the time being. 4 Edw. VII. c. 23, s. 187 (1); 3-4 Geo. V. c. 46, s. 16.

(2) This section shall not in any way alter or affect the Act passed in the 58th year of Her late Majesty's reign and Chaptered 94 or the by-laws confirmed thereby. 4 Edw. VII. c. 23, s. 187 (2). 58 V. c. 94, not affected.

TAX SALES IN PROVISIONAL JUDICIAL DISTRICTS.

193. Subject to the provisions of section 194, arrears of taxes due to the corporation of any municipality in a Provisional Judicial District, shall be collected and managed in the same way as like arrears due to municipalities in counties; and the treasurer and head of such municipality shall perform the like duties in the collection and management of arrears of taxes as in a county are performed by the treasurer and warden. 3-4 Geo. V. c. 46, s. 15, *part*. Collection of taxes and sales of land for taxes.

194.—(1) The powers and duties imposed by this Act upon the treasurer of a county in respect to the collection of arrears of taxes, and the sale of land for taxes, shall, in the districts of Muskoka and Parry Sound, be exercised and performed by the sheriffs of those districts respectively; and all the provisions of this Act respecting the sale of lands for taxes in a county shall apply *mutatis mutandis* to sales under this section; and all duties and proceedings required to be performed by the officers of local municipalities in counties in regard to the collection of such arrears upon lists received from county treasurers shall be performed by the like officers of the municipality in respect to similar lists received from the sheriff of the districts. Sale of land for taxes.

(2) Where any part of the taxes on lands in the districts of Muskoka and Parry Sound has been due for and in the third year, or for more than three years preceding the then current year, the sheriff of the district unless otherwise directed by a by-law of the council of any municipality in the district, shall make out a list in duplicate of all the lands liable under the provisions of this Act to be sold for taxes in every municipality in the district, with the amount of arrears against each lot set opposite to the same, and shall transmit the same to the head of the municipality in which the lands are situate, and such head shall authenticate the list by affixing thereto the seal of the corporation and his signature, and one of the lists shall be deposited with the clerk of the municipality, and the other shall be returned to the sheriff with a warrant thereto annexed under the hand of such head and the seal of the Corporation commanding him to levy upon the lands for the arrears due thereon, with his costs. When lands to be sold for taxes.

(3) Where lands liable to sale for taxes are situate in the townships of McMurrich, Ryerson, Strong, Laurier, Nipis- Place of sale.

sing, Perry, Armour, Joly, Gurd, Bethune, Proudfoot, Machar, Himsworth, or in the villages of Sundridge or Burk's Falls the sale of such lands for taxes shall take place at Burk's Falls.

(4) Where the lands are situate in the townships of Spence, Ferrie, Pringle, Croft, Lount, Hardy, Chapman, Mills, or Patterson, the sale shall take place at Maganetawan village.

(5) Where the lands are situate in the townships of Conger, Humphrey, Monteith, Carling, Shawanaga, Harrison, Wallbridge, Mowat, Cowper, McDougall, McKellar, Hagerman, McKenzie, Wilson, McConkey, Foley, Christie, Ferguson, Burpee, Burton, Brown, Blair, the town of Parry Sound, or other parts of the District of Parry Sound not named in this section, the sale shall take place at the town of Parry Sound.

(6) Where the lands are situate in the townships of Medora, Wood, Morrison, Muskoka, Ryde, Baxter, Gibson, or Freeman, the town of Gravenhurst, or the village of Port Carling, the sale shall take place at the town of Gravenhurst.

(7) Where the lands are situate in the townships of Chaffey, Brunel, Stisted, Stephenson or Sinclair, or in the Village of Huntsville, the sale shall take place at the said village of Huntsville.

(8) Where the lands are situate in the townships of Cardwell, Watt, Monek, McLean, Ridout, Macaulay, Draper, Oakley or other parts of Muskoka not named in this section, the sale shall take place at the town of Bracebridge.

Change of
place of sale.

(9) On an application of the council of any township the place of sale may be directed by the Lieutenant-Governor in Council to be transferred thereafter from any one of the places herein named to any other of them.

Advertisements of sale.

(10) The advertisements for the sale shall be published in the *Ontario Gazette* and in some newspaper published at the place of sale or elsewhere in the District and for the periods required by law.

Allowances to
sheriffs for
collection of
taxes.

(11) A Judge of the District Court may, by his order in writing direct that the said sheriff shall be entitled to retain out of the moneys collected by him in the performance of his duties, with respect to the collection of taxes, a sum over and above the two and one-half per centum mentioned in section 166, but such sum, including the two and one-half per centum shall not exceed ten per centum of the amount of the arrears of taxes collected.

Sheriffs to pay
over amounts
received
half-yearly.

(12) The sheriff shall on the first day of June and December in each year, pay over to the treasurers of the respective municipalities in his district all money collected by him

prior to those said dates in respect of lands in arrears for taxes.

(13) The books and accounts of the sheriff shall be audited on or before the 30th day of September in each year by the Crown Attorney of the District. 3-4 Geo. V. c. 46, s. 15, *part*. Audit of Sheriffs' books.

DEFICIENCY FROM NON-PAYMENT OF CERTAIN TAXES
PROVIDED FOR.

195. Every municipal council, in paying over any school or local rate, or its share of any county rate, or of any other tax or rate lawfully imposed for Provincial or local purposes, shall supply, out of the funds of the municipality, any deficiency arising from the non-payment of the tax, but shall not be held answerable for any deficiency arising from the abatements of, or inability to collect, any taxes other than for county rates. 4 Edw. VII. c. 23, s. 188. Deficiencies in certain taxes to be supplied by local municipality.

DEBENTURES ON CREDIT OF ARREARS OF TAXES.

196.—(1) The council of any municipality, whose officers have power to sell lands for arrears of taxes, may from time to time, without the assent of the ratepayers, by by-law authorize the mayor or other head of the municipality to issue, under the corporate seal, upon the credit of the taxes in arrear in the municipality, debentures payable not later than eight years after the date thereof, and for sums not less than \$100 each, so that the whole of the debentures at any time issued and unpaid do not exceed one-half of all the arrears then due and owing upon land in the municipality, together with the money standing to the credit of the special fund hereinafter provided. Issue of debentures on credit of arrears of taxes authorized

(2) Such debentures shall be negotiated by the mayor or other head of the municipality and treasurer, and all money received in payment of taxes upon the security of which such debentures are issued shall be set apart as a special fund out of which to pay the debentures and interest thereon. Special fund.

(3) If at any time there is not to the credit of such special fund sufficient money to redeem the debentures due and accrued interest, such debentures and interest shall be payable out of the general funds of the municipality, and the payment thereof may be enforced in the same manner as is by law provided in the case of other debentures. 4 Edw. VII. c. 23, s. 189. Deficiency in special fund.

ARREARS OF TAXES IN NEW MUNICIPALITIES.

197. Upon the incorporation of any new town, in any county, the county treasurer shall make out a list of all arrears of taxes then due and unpaid in his books upon lands situated in the newly incorporated town, and shall transmit On incorporation of a town county treasurer to transmit list of arrears to town treasurer.

the same to the treasurer of the town, who, after receipt of the said list, shall have, with the mayor, all the powers possessed by the county treasurer and warden for the collection of such taxes and for enforcement of the same by sale; but in such list the county treasurer shall not include any lot then advertised for sale for taxes. 4 Edw. VII. c. 23, s. 190.

Arrears of
taxes, how
collected,
where new
municipality
formed.

198. In cases where a new local municipality is formed from two or more municipalities or portions of two or more municipalities situated in different counties, the collection of arrears of taxes due at the time of formation shall be made by the treasurer of the county in which the new municipality is situate, if the new municipality is a township or village, or if the new municipality is a town, by the treasurer of such town; and for the purpose of enabling him to make the collection, the treasurer or the treasurers of the other county or counties from which any portion of the new municipality is detached, shall immediately upon the formation thereof make out lists of the arrears of taxes then due in their respective portions, and transmit the same to the treasurer of the county in which the new municipality is situate, or of the town as the case may be; and where a new municipality is formed from two or more municipalities situate in any one county, the treasurer shall keep a separate account for such new municipality. 4 Edw. VII. c. 23, s. 191.

Who may
take proceed-
ings to enforce
collection.

199. The treasurer and warden of the county in which the new municipality, if it be a township or village, is situate, and the treasurer and mayor of the new municipality, if it be a town, shall have power, respectively, to take for the collection of such arrears of taxes all the proceedings which treasurers and wardens or treasurers and mayors can take for the sale and conveyance of land in arrear for taxes; and in case the lands in the new municipality have been advertised by the treasurer or treasurers of the county or counties of which the new municipality formed part before its formation, the sale of such lands shall be completed in the same manner as if such new municipality had not been formed. 4 Edw. VII. c. 23, s. 192.

Proceedings
where returns
made to
treas-urer
before
separation.

200. Where a municipality or part of a municipality has been or is hereafter separated from one county and included in another after a return has been made to the treasurer of the county to which it formerly belonged, of lands in arrear for taxes, but the lands have not been advertised for sale by the treasurer of the former county, such treasurer shall return to the treasurer of the county of which such territory belongs a list of all the lands within such territory returned as in arrear for taxes and not advertised; and the treasurer and warden of the county to which the territory belongs shall have power respectively to take all the proceedings which treasurers and wardens under this Act can

take for the sale and conveyance of lands in arrear for taxes; but in case the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyances of lands previously sold shall be made in like manner. 4 Edw. VII. c. 23, s. 193.

201. Where a municipality or any part of a municipality has been or is hereafter separated from a county and included in a city or town separated from the county for municipal purposes, after a return has been made to the treasurer of the county of lands in arrear for taxes, but the lands have not been advertised for sale by the treasurer of the county, such treasurer shall return to the treasurer of the city or town a list of all the lands within such territory returned as in arrear for taxes and not advertised; and the treasurer and mayor of the city or town shall have power to take all the proceedings which treasurers and wardens under this Act can take for the sale and conveyance of lands in arrear for taxes; but in case the lands in such territory have been advertised before the separation, the sale of such lands shall be completed in the same manner as if the separation had not taken place, and conveyance of lands previously sold shall be made in like manner. 4 Edw. VII. c. 23, s. 194.

Sales for taxes on lands which have been annexed to city or separated town.

RESPONSIBILITY OF OFFICERS.

202. Every treasurer and collector, before entering on the duties of his office, shall enter into a bond to the corporation for the faithful performance of his duties. 4 Edw. VII. c. 23, s. 195.

Security by treasurers and collectors.

203. Subject to the provisions of *The Guarantee Companies Securities Act*, such bond shall be given by the officer and two more sufficient sureties, in such sum and in such manner as the council by any by-law in that behalf may require, and shall conform to all the provisions of such by-law. 4 Edw. VII. c. 23, s. 196.

Bonds with sureties. Rev. Stat. c. 190.

204. Any treasurer, assessor, clerk or other officer who refuses or neglects to perform any duty required of him by this Act, and no other penalty is imposed, shall incur a penalty not exceeding \$100. 10 Edw. VII. c. 88, s. 32.

Penalty on officers failing to perform their duty, and how enforced.

205. If an assessor neglects or omits to perform his duties the other assessor, or other assessors (if there be more than one for the same locality), or one of such assessors, shall, until a new appointment, perform the duties; and any council may, after an assessor neglects or omits to perform his duties, appoint some other person to discharge such duties; and the assessor so appointed shall have all the powers and be entitled to all the emoluments which appertain to the office. 4 Edw. VII. c. 23, s. 198.

Other assessors may act for those in default.

Penalty for unjust or fraudulent assessment.

206. Any clerk, treasurer, assessment commissioner, assessor or collector, or any assistant or other person in the employment of the municipality, acting under this Act, who makes an unjust or fraudulent assessment or collection, or copy of any assessor's or collector's roll, or wilfully and fraudulently inserts, or permits to be inserted therein the name of any person which should not be entered, or fraudulently omits, or allows to be omitted, the name of any person which should be entered, or wilfully omits any duty required of him by this Act, shall incur a penalty not exceeding \$200, or shall be liable, in the discretion of the convicting justice, to imprisonment for any period not exceeding six months, or to both such penalty and imprisonment. 10 Edw. VII. c. 88, s. 33.

Penalty for neglect to make out roll.

207. Any assessor of any township, village or ward, who neglects or omits to make out and complete his assessment roll for the township, village or ward, and to return the same to the clerk of such township or village, or of the city or town in which such ward is situated, or to the proper officer or place of deposit of such roll within the prescribed period, shall incur a penalty not exceeding \$200. 10 Edw. VII. c. 88, s. 35.

Proceedings for compelling collectors to pay over moneys collected to the proper treasurer.

208. If a collector refuses or neglects to pay to the proper treasurer, or other person legally authorized to receive the same, the sums contained in his roll, or duly to account for the same as uncollected, the treasurer shall, within twenty days after the time when the payment ought to have been made, issue a warrant, under his hand and seal, directed to the sheriff of the county or city (as the case may be), commanding him to levy of the goods, chattels, lands and tenements of the collector and his sureties, such sum as remains unpaid and unaccounted for, with costs, and to pay to the treasurer the sum so unaccounted for, and to return the warrant within forty days after the date thereof. 4 Edw. VII. c. 23, s. 202.

Warrant to be delivered to sheriff, etc.

209. The treasurer shall immediately deliver the warrant to the sheriff of the county or city, as the case may require. 4 Edw. VII. c. 23, s. 203.

Sheriff, etc., to execute it and pay money levied.

210. The sheriff to whom the warrant is directed shall within forty days, cause the same to be executed and make return thereof to the treasurer, and shall pay to him the money levied by virtue thereof, deducting for his fees the same compensation as upon writs of execution issued out of courts of record. 4 Edw. VII. c. 23, s. 204.

Mode of compelling sheriff, etc., to pay over.

211. If a sheriff refuses or neglects to levy any money when so commanded, or to pay over the same, or makes a false return to the warrant, or neglects or refuses to make any return, or makes an insufficient return, the treasurer

may, upon affidavit of the facts, apply in a summary manner to the Supreme Court, or to a Judge thereof, for an order *nisi* or summons calling on the sheriff to answer the matter of the affidavit. 4 Edw. VII. c. 23, s. 205.

212. The order *nisi* or summons shall be returnable at such time as the Court or Judge directs. 4 Edw. VII. c. 23, s. 206. When returnable.

213. Upon the return of the order *nisi* or summons, the Court or Judge may proceed in a summary manner upon affidavit, and without formal pleading, to hear and determine the matter of the application. 4 Edw. VII. c. 23, s. 207. Hearing on return.

214. If the Court or Judge is of opinion that the sheriff has been guilty of the dereliction alleged against him, the Court or Judge shall order the proper officer of the Court to issue a writ of *fieri facias*, adapted to the case, directed to a coroner of the county in which the municipality is situate, or to a coroner of the city or town (as the case may be) for which the collector is in default. 4 Edw. VII. c. 23, s. 208. Fi. Fa. to the coroner to levy the money.

215. The writ shall direct the coroner to levy of the goods and chattels of the sheriff, the sum which the sheriff was ordered to levy by the warrant of the treasurer, together with the costs of the application and of the writ and of its execution; and the writ shall bear date on the day of its issue, and shall be returnable forthwith on its being executed; and the coroner, upon executing the same, shall be entitled to the same fees as upon a writ grounded upon a judgment of the Court. 4 Edw. VII. c. 23, s. 209. Tenor of such writ. Execution thereof. Fees

216. A sheriff who wilfully omits to perform any duty required of him by this Act shall be liable to a penalty not exceeding \$200. 10 Edw. VII. c. 88, s. 36. Penalty on sheriff

217. All money assessed, levied and collected for the purpose of being paid to the Treasurer of Ontario, or to any other public officer, for the public uses of Ontario, or for any special purpose or use mentioned in the Act under which the same is raised, shall be assessed, levied and collected by, and accounted for and paid over to the same persons, in the same manner, and at the same time as taxes imposed on the same property for county, city or town purposes and shall be deemed and taken to be money collected for the county, city or town, so far as to charge every collector, or treasurer with the same, and to render him and his sureties responsible therefor, and for every default or neglect in regard to the same, in like manner as in the case of money assessed, levied and collected for the use of the county, city or town. 4 Edw. VII. c. 23, s. 211. Payment of money collected for the Province.

How money collected for county purposes to be paid over.

218. All money collected for county purposes, or for any of the purposes mentioned in the next preceding section, shall be payable by the collector to the township, town or village treasurer, and by him to the county treasurer; and the corporation of the township, town or village shall be responsible therefor to the corporation of the county. 4 Edw. VII. c. 23, s. 212.

Collectors or treasurers bound to account for all moneys collected by them.

219. Any bond or security given by the collector or treasurer to the corporation of the township, town or village, to account for and pay over all money collected or received by him, shall apply to money collected or received for county purposes, or for any of the purposes mentioned in section 226. 4 Edw. VII. c. 23, s. 213.

Local treasurer to pay over county moneys to county treasurer.

220. The treasurer of every township, town or village shall, on or before the 20th day of December in each year pay to the treasurer of the county all moneys which were assessed and by law required to be levied and collected in the municipality for county purposes or for any of the purposes mentioned in section 217, and in case of non-payment of such moneys or any portion thereof on or before the said date the township, town or village so in default shall pay to the county interest thereon at the rate of six per cent. per annum from the said date until payment shall be made. 6 Edw. VII. c. 36, s. 19; 10 Edw. VII. c. 88, s. 25.

Mode of enforcing such payments.

221. If default be made in such payment, the county treasurer may retain or stop a like amount out of any money which would otherwise be payable by him to the municipality, or may recover the same by an action against the municipality, or where the same has been in arrear for three months, he may, by warrant under his hand and seal, reciting the facts, direct the sheriff of the county to levy and collect the amount due with interest and costs from the municipality in default. 4 Edw. VII. c. 23, s. 215.

Warrant to sheriff.

How sheriff to make levy.

222. The sheriff, upon receipt of the warrant, shall levy and collect the amount, with his own fees and costs in the same manner as is provided by *The Execution Act*, in the case of executions against municipal corporations. 4 Edw. VII. c. 23, s. 216.

Rev. Stat. c. 80.

Treasurer, etc., to account for and pay over Crown moneys.

223. The county, city or town treasurer shall be accountable and responsible to the Crown for all money collected for any of the purposes mentioned in section 217, and shall pay over such money to the Treasurer of Ontario. 4 Edw. VII. c. 23, s. 217.

Municipality responsible or such moneys.

224. Every county, city and town shall be responsible to His Majesty, and to all other persons interested, that all money coming into the hands of the treasurer of the county, city or town in virtue of his office, shall be by him duly paid

over and accounted for according to law. 4 Edw. VII. c. 23, s. 218.

225. The treasurer and his sureties shall be responsible and accountable for such money to the county, city or town; and any bond or security given by them for the duly accounting for and paying over money belonging to the county, city or town, shall apply to all money mentioned in section 217 and may be enforced against the treasurer or his sureties in case of default. 4 Edw. VII. c. 23, s. 219.

Treasurer, etc., responsible to county, etc.
Bonds to apply.

226. The bond of the treasurer and his sureties shall apply to school money, and to all public money of Ontario; and, in case of default, His Majesty may enforce the responsibility of the county, city or town, by stopping a like amount out of any public money which would otherwise be payable to the county, city or town or to the treasurer thereof, or by action against the corporation. 4 Edw. VII. c. 23, s. 220.

Bonds to apply to school money.

227. Any person aggrieved by the default of the treasurer may recover from the corporation of the county, city or town the amount due or payable to such person as money had and received to his use. 4 Edw. VII. c. 23, s. 221.

City, etc., responsible for default of treasurer, etc.

MISCELLANEOUS.

228. Any affidavit or oath required by this Act to be made may be made before any Justice of the Peace having jurisdiction in the municipality or any commissioner for taking affidavits or any notary public for the Province. 4 Edw. VII. c. 23, s. 222.

Oaths and affidavits.

229. Any person who wilfully tears down, injures or defaces any advertisement, notice or other document, which is required by this Act to be posted up in a public place for the information of persons interested, shall incur a penalty not exceeding \$20. 10 Edw. VII. c. 88, s. 37.

Tearing down notices, etc.

230. Prosecutions for contraventions of this Act where a penalty or imprisonment is imposed, shall be had under *The Ontario Summary Convictions Act*. 10 Edw. VII. c. 88, s. 38.

Recovery of penalties.
Rev. Stat. c. 90.

231. When not otherwise provided all penalties recovered under this Act shall be paid to the treasurer to the use of the municipality. 4 Edw. VII. c. 23, s. 225.

Application of penalties.

232. In addition to the penalties and punishments provided for by this Act for a contravention of the provisions thereof, the person guilty of such contravention shall be liable to every person who is thereby injured for the dam-

Right of action for damages against officer.

ages sustained by such person by reason of such contravention. 10 Edw. VII. c. 88, s. 39.

By-laws and agreements fixing assessments or granting exemption from taxation not affected.

233. This Act shall not affect the terms of any agreement made with a municipal corporation, or any by-law heretofore or hereafter passed by a municipal council under any other Act for fixing the assessment of any property, or for commuting or otherwise relating to municipal taxation. But whenever in any Act of this Legislature or by any Proclamation of the Lieutenant-Governor in Council or by any valid by-law of a municipality heretofore passed or by any valid agreement heretofore entered into the assessment of the real and personal property of any person in a municipality is fixed at a certain amount for a period of years, unexpired at the time of the coming into force of this Act, or the taxes payable annually by any person in respect to the real and personal property are fixed at a stated amount during any such period, or the real and personal property of any person or any part thereof is exempt from municipal taxation in whole or in part for any such period, such fixed assessment, or commutation of taxes or exemption shall be deemed to include any business assessment or other assessment and any taxes thereon in respect to the property or business mentioned in such Act, Proclamation, by-law or agreement to which such person or the property of such person would otherwise be liable under the provisions of this Act. 4 Edw. VII. c. 23, s. 226.

EXEMPTION OF WOODLANDS FROM TAXATION.

By-law exempting woodlands.

234.—(1) The council of any township may by by-law exempt in whole or in part from municipal taxation, including school rates, lands in the township being “woodlands” within the meaning of this section. Provided that such by-law shall not exempt more than one acre in ten for such “woodlands,” and not more than twenty-five acres held under a single ownership. 6 Edw. VII. c. 42, s. 1; 7 Edw. VII. c. 23, s. 31.

“Woodlands,” what to be included in.

(2) “Woodlands” within the meaning of this section shall be lands having not less than 400 trees per acre of all sizes, or 300 trees, measuring over 2 inches in diameter, or 200, measuring over 5 inches in diameter, or 100, measuring over 8 inches in diameter (all such measurements to be taken at $4\frac{1}{2}$ feet from the ground) of one or more of the following kinds: White or Norway pine, white or Norway spruce, hemlock, tamarac, oak, ash, elm, hickory, basswood, tulip, (white-wood), black cherry, walnut, butternut, chestnut, hard maple, soft maple, cedar, sycamore, beech, black locust, or catalpa, or any other variety which the council may name in such by-law; and which said lands have been set apart by the owner for the sole purpose of fostering the growth

of the trees thereon and which are not used for grazing live stock. 6 Edw. VII. c. 42, s. 2.

(3) Woodland owners desiring to secure exemption from taxation shall make application in writing to the clerk of the township on or before the first day of February of the year in which they desire that the exemption shall take effect. 6 Edw. VII. c. 42, s. 3. Application for exemption.

(4) Upon such application being made by the owners of such Woodlands, it shall be the duty of the township assessor to personally examine such "woodlands" to determine whether they come within the meaning of this section, and the said assessor may, if he deem it necessary, demand from the applicant or his agent, that such owner or his agent make a statutory declaration, setting forth that the said lands fulfil the requirements of this section, and the said assessor shall make returns to the clerk of the township of any such lands entitled to exemption for the current year, and shall give in said returns the name of the owner, the area entitled to exemption, and the year in which the exemption shall first go into effect. Examination by assessor.

(5) If at any time after the granting of any exemption under this section, it appears to the council that the exempted lands or part thereof have been used for grazing live stock, or are not "woodlands" as defined in this section, the council shall direct that the exemption shall cease forthwith, and may direct the clerk of the township to enter, and the clerk shall enter, such lands or part thereof on the next collector's roll whether for non-resident or resident owners, as the case may require, for the full amount of all taxes remitted during the five years immediately preceding the date on which the council shall direct that the exemption shall cease. Exemption to cease when lands used for other purposes.

(6) Any assessor who shall knowingly and wilfully make fraudulent returns respecting any such lands, or any owner or agent who shall knowingly and wilfully make a fraudulent declaration respecting such lands, or a fraudulent application to have the same made exempt under this section, shall in addition to any other punishment provided by law, be liable to a fine of not more than \$300, or imprisonment for not more than six months, or either or both, at the discretion of the court, and proceedings may be taken to recover any such penalty under *The Ontario Summary Convictions Act*. Penalty for fraud. Rev. Stat. c. 90.

FORM 1.

(Section 8.)

FORM OF AFFIDAVIT TO BE MADE BY A PERSON DESIRING TO BE
ASSESSED IN RESPECT OF EXEMPTED INCOME

I, _____ make oath and say as follows:

(1) I am _____ and I am a _____ resident in the
of _____ residing at _____ (giving where possible name of street
and number of house).

(2) I am in receipt of an annual income of \$ _____

(3) I desire to be assessed in respect of such income, for the
purpose of being entitled to vote at municipal elections, and that
my name be duly entered in the assessment roll accordingly for the
current year.Sworn before me at _____ in the County
of _____ this _____ day of _____ 19 _____
J.P., etc. _____ J.S.

4 Edw. VII. c. 23, Sched. A.

FORM 2.

(Section 18.)

FORMS OF ASSESSMENT RETURNS.

NOTICE TO RATEPAYERS.

(City of _____)

Pursuant to *The Assessment Act* you are hereby required to fill
up such of the following returns as are applicable to your case, and
to deliver the same to me at my office, No. _____ Street, _____ within
ten days from the delivery or mailing, as the case may be, to you
of this notice, under the penalty contained in the said Act for
neglect so to do.

Dated this _____ day of _____ 19 _____

No. 1.

GENERAL RETURN.

(or CITY, TOWN or VILLAGE) OF

STREET

CON.

SIDE.

Names and description of persons assessed.				Description of Real Property.								Assessed values of Land and Buildings.								Statistics								Statute Labour.		Dog Tax.		Remarks.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																													
2	3	4	5	6	7	8	9	10	11	12	13	14	15	17	18	22	23	24	25	26	28	29	27	30	32																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																				
Name (surname first) of person taxable (owners and tenants of land and persons otherwise taxable).	Age.	Freehold or tenancy, M. F. or F. S.	Occupation, and in the case of females S. M. or W., and in case of non-resident N. R.	Number of Concession, name of street, etc., or other local designation of the local division in which the land lies or residence, in case of persons not assessable for land or in the case of man-hood suffrage, voters, etc.	Number of lot, house, etc., in such division.	Number of acres or other measure showing the extent of the property.	Number of acres cleared, or in cities, towns or villages whether vacant or built upon.	Number of acres of woodland.	Number of acres of slash land.	Number of acres of swamp, marsh or waste land.	Value of land exclusive of buildings.	Value of buildings.		Total value of real property.		Total value of land liable for school rates only.		Total value of property exempt from taxation, or liable for local improvements only.		Religion.	Number of School Section.	Public or Separate School support—(P. or S.)		Number of children between the ages of 5 and 21.		Number of children between the ages of 5 and 16.		Number of persons in the family including such person and all other persons residing on the premises.		Births.	Deaths.	Number of persons from 21 to 60.		Number of days' labour.		Number of dogs.		Number of bitches.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																							

AFFIDAVIT.

I hereby make oath that I have knowledge of the particulars contained in the foregoing statement and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Sworn before me at in the County of this day of A. D. 19 Signature.

No. 2.

RETURN TO BE DELIVERED BY ALL PERSONS AS TO THEIR INCOME.

Name.

Occupation.

Address of Residence.

Address of place of business.

1. Income from Profession or Calling in this Municipality.
(Insert full particulars.)
2. Income wheresoever derived, from Mortgages.
(Insert full particulars.)
3. Income, wheresoever derived, from Bonds, Stocks, Debentures,
Personal Securities, and from money lent or invested on
any other securities, or on bank deposit, or without security.
(Insert full particulars.)
4. Taxable income from any other source.
(Insert full particulars.)

AFFIDAVIT.

(To be inserted at the end of each return.)

I hereby make oath that I have knowledge of the particulars contained in the foregoing statement and that the same are in every respect fully and truly stated to the best of my knowledge and belief.

Sworn before me at
in the County of
this day of 19 .

(Signature.)

4 Edw. VII. c. 23, Sched. E.

FORM 3.

(Section 26.)

FORM OF AFFIDAVIT BY PERSON CLAIMING TO BE PLACED ON THE
ASSESSMENT ROLL AS A VOTER.

I, _____ make oath and say as follows:

I am a British subject by birth (or naturalization) and I am not a citizen or a subject of any foreign country and I have resided in the Dominion of Canada for the nine months next preceding the day of _____ in the present year (the day to be filled in here is the date on which by Statute or by-law the Assessor is to begin making his roll.)

I was at the said date in good faith a resident of and domiciled in (giving name of municipality for which the assessor is making his roll), and I have resided therein continuously from the said date, and I now reside therein at (here give the deponent's residence by the number thereof, if any, and the street or locality whereon or wherein the same is situated, if in a town or village. If the residence is in a township, give the concession wherein, and the lot or part of lot whereon it is situated.)

I am of the full age of 21 years, and am not disqualified under The Ontario Election Act or otherwise by law prohibited from voting at elections for the Legislative Assembly of Ontario.

Sworn before me at _____ in the County
of _____ this _____ day of _____ 19____
(Signature of Voter.)

Signature of J.P., etc.

(This oath may be taken before any Assessor or any Justice of the Peace, Commissioner for taking Affidavits, or Notary Public.)

4 Edw. VII. c. 23, Sched. A., Form 1; 7 Edw. VII. c. 23, s. 54.

FORM OF AFFIDAVIT FOR SAME PURPOSE AS PRECEDING ONE.

But where the person has been temporarily absent from the municipality.

I, _____ make oath and say as follows:

I am a British subject by birth (or naturalization) and I am not a citizen or a subject of any foreign country and I have resided in the Dominion of Canada for the nine months next preceding the _____ day of _____ in the present year (the day to be filled in here is the date on which by Statute or by-law the Assessor is to begin making his roll.)

I was at the said date in good faith a resident of and domiciled in (giving name of municipality for which the assessor is making his roll), and I have resided therein continuously from the said date, and I now reside therein at (here give the deponent's residence by the number thereof, if any, and the street or locality whereon or wherein the same is situated, if in a town or village. If the residence is in a township, give the concession wherein, and the lot or part of lot whereon it is situated.)

And I have not been absent from Ontario during the said nine months except occasionally or temporarily or as a member of a permanent militia corps enlisted for continuous service or on service as a member of the active militia, or as a student in attendance at an institution of learning in the Dominion of Canada, that is to say (here name institution) as the case may be.

I am of the full age of 21 years, and am not disqualified under *The Ontario Election Act* or otherwise by law prohibited from voting at elections for the Legislative Assembly of Ontario.

Sworn before me at _____ in the County
of _____ this _____ day of _____ 19____
(Signature of Voter.)

(Signature of J.P., or Commissioner, etc.)

(The oath may be taken before any Assessor or any Justice of the Peace, Commissioner for taking Affidavits, or Notary Public.)

4 Edw. VII. c. 23, Sched. A., Form 2; 7 Edw. VII. c. 23, s. 54.

FORM 4.

(Section 33.)

CENSUS of all children between the ages of eight and fourteen in the city, town, village or township (as the case may be), of

Assessor.

Name of Child.	Age.	Parent or Guardian.	Public or Separate School Supporter.	Residence.

4 Edw. VII. c. 23, *Sched. C.*; 8 Edw. VII. c. 50, s. 6.

FORM 5.

(Section 37, subsection 6.)

FORM OF NOTICE BY NON-RESIDENT OWNER OF LAND REQUIRING TO BE ASSESSED THEREFOR.

To the Clerk of the Municipality of

Take notice that I (or we) own the land hereunder mentioned, and require to be assessed, and to have my name (or our names) entered therefor on the Assessment roll of the Municipality of

That my (or our) full name (or names), place of residence and Post Office Address, are as follows:

A.B., of the Township of York, shoemaker, Weston Post Office (as the case may be). Description of land (here give such description as will readily lead to the identification of the land.)

Dated the day of , 19 .

C.D.

Witness, G.H.

4 Edw. VII. c. 23, *Sched. D.*

FORM 6.

(Section 49.)

ASSESSMENT NOTICE FOR 19

TOWNSHIP OF (or CITY, TOWN, or VILLAGE) OF WARD No.
CON. SIDE.
(or STREET),

No. on Roll	Name and description of person assessed.		School Supporter.	Description of real property.		Assessment of land and buildings.					Assessment for personal taxes.	
	Name.	Occupation.	"P" or "S" or (Public or Sep. rate Sch of Supporter).	No. of lot or house.	No. of concession, street or other designa- tion of local division.	Actual value of land.	Value of build- ings.	Total actual value of real property.	Total value of real pr- perty liable for school tax only.	Total value of real property liable for local improve- ments only.	For business assessment.	For income.
						\$	\$	\$	\$	\$	\$	

Take notice that you are assessed as above specified for the year 19 . If you deem yourself overcharged or otherwise improperly assessed, you or your agent may notify the Clerk of the Municipality (or Assessment Commissioner) in writing of such overcharge or improper assessment, within fourteen days after the day of (insert date on which the Assessment Roll was returned), and your complaint shall be tried by the Court of Revision for the Municipality of Notice Delivered, 19 .

Sir:--Take notice that I intend to appeal against this assessment for the following reasons: (INDORSED.)
I am, Sir, your obedient servant

A. B., Township Clerk
or Assessment Commissioner.

Note--In the case of a Municipality in which there are supporters of a Roman Catholic Separate School therein or contiguous thereto the notice required by Section 81 must also be added.

FORM 7.

(Section 50.)

AFFIDAVIT OR AFFIRMATION OF ASSESSOR IN VERIFICATION OF ASSESSMENT ROLL.

I, (name and residence) make oath and say (or solemnly declare and affirm) as follows:—

1. I have, according to the best of my information and belief, Oath of Assessor set down in the above assessment roll all the real property liable for or on completion of roll, taxation in the municipality (or ward) of (as the case may be); and I have justly and truly assessed each of the parcels of real property so set down at its actual value.

2. I have estimated and set down, according to the best of my information and belief, in said assessment roll, *the amounts assessable against every person named in the said roll for the purpose of the tax in respect of his trade, business, profession or calling, and in respect of his income.*

3. I have entered therein the names of all the resident tenants and freeholders, and of all other persons of whose names I am aware or who have required their names to be entered therein, with the true amount of property occupied or owned by each; and I have not entered the name of any person whom I do not truly believe to be a tenant or freeholder, or the *bona fide* occupier or owner of the property, or in receipt of the income set down opposite his name, for his own use and benefit, or otherwise to be entitled by law to be so entered.

4. According to the best of my knowledge and belief, I have entered therein the name of every person entitled to be so entered, either under *The Assessment Act* or any other Act; and I have not intentionally omitted from said roll the name of any person whom I knew or had good reason to believe, to be entitled to be entered therein under any or either of the said Acts.

5. I have entered in the said roll the date of delivery or transmitting of the notice required by section 49 of *The Assessment Act*; and every such date is truly and correctly stated in the said roll.

6. I have not entered the name of any person at too low a rate in order to deprive such person of a vote, or at too high a rate in order to give such person a vote; and the amount for which each such person is assessed in the said roll truly and correctly appears in the said notice delivered or transmitted to him as aforesaid.

7. I have not entered any name in the above roll, or improperly placed any letter or letters in column 4, opposite any name, with intent to give to any person not entitled to vote, a right of voting; and I have not intentionally omitted from the said roll the name of any person whom I believe to be entitled to be placed therein, nor have I, in order to deprive any person of a right of voting, omitted from column 4 opposite the name of such person, any letter or letters which I ought to have placed there.

Sworn (or solemnly declared
and affirmed) before me at _____
_____, of _____ in
the county of _____ this
day of _____, A.D. 19 ____.

FORM OF OATH TO BE ATTACHED TO ASSESSMENT ROLL.

(Where assistant of an Assessment Commissioner enters date of delivery or transmission of notices under section 49.)

I (name of assistant and residence) make oath and say (or solemnly declare and affirm) as follows:—

I have entered in the assessment roll attached hereto, the date of delivery or transmission of the notice required by section 49 of *The Assessment Act*; and every such date has been truly stated in said roll.

4 Edw. VII. c. 23, *Sched. G.*

FORM 8.

(Section 69, subsection 15.)

FORM OF DECLARATION OF PERSON COMPLAINING IN PERSON OF OVERCHARGE ON TAXABLE INCOME.

I, A.B. (set out name in full, with place or residence, business, trade, profession or calling), do solemnly declare that my net income derived from all sources not exempted by law from taxation is

4 Edw. VII. c. 23, *Sched. I.*

FORM 9.

(Section 69, subsection 15)

FORM OF DECLARATION BY AGENT OF PERSON COMPLAINING OF OVERCHARGE ON TAXABLE INCOME.

I, A.B. (set out name in full, and place of residence, business, trade, profession or calling), agent for C.D. (set out name in full, with place of residence, and calling of person assessed), do solemnly declare that the net income of the said C.D., derived from all sources not exempt from taxation by law, is ; and that I have the means of knowing, and do know, the income of the said C.D.

4 Edw. VII. c. 23, *Sched. J.*

FORM 10.

(Section 116.)

FORM OF OATH TO BE ATTACHED TO COLLECTOR'S ROLL.

I (*name and residence*) make oath and say (*or solemnly declare and affirm*) as follows:—

I have appended my initials in the collector's roll attached hereto to every date entered by me in said roll as the date of demand of payment, or notice of taxes, pursuant to section 104 (*or* section 108) and of every transmission of statement and demand of taxes pursuant to section 106 of *The Assessment Act*; and every such date has been truly stated in said roll.

4 Edw. VII. c. 23, *Sched. H.*

FORM 11.

(Section 136 (2).)

CERTIFICATE OF TREASURER.

Treasurer's Office of the County (*or City or Town or Township*
of)

Statement showing arrears of taxes upon the following lands in the Township, or City, or Town of

Lot.	Concession or Street.	Quantity of Land.	Amount.	Year.

I hereby certify that the above statement shows all arrears of taxes returned to this office against the above lands, and that no part of the said lands has been sold for taxes within the last eighteen months nor returned to the Clerk for collection within the last twelve months, under Sub-section 1 of Section 129 of *The Assessment Act*, and that the return under Section 116 of said Act has been made for the year 19 .

Treasurer.

4 Edw. VII. c. 23, *Sched. K.*

FORM 12.

(Section 173.)

TAX DEED.

To all to whom these Presents shall come:

We, _____, of the _____ of _____, Esquire, Warden
 (or Mayor, or Reeve), and _____ of the _____ of _____
 Esquire, Treasurer of the County (or City or Town or Township)
 of _____, Send Greeting:

WHEREAS by virtue of a warrant under the hand of the Warden
 (or Mayor or Reeve) and seal of the said County (or City or Town
 or Township) bearing date the _____ day of _____, in the year
 of our Lord one thousand nine hundred and _____, commanding
 the Treasurer of the said County (or City or Town or Township)
 to levy upon the land hereinafter mentioned, for the arrears of
 taxes due thereon, with his costs, the Treasurer of the said County
 (or City or Town or Township) did, on the _____ day of 19____, sell
 by public auction to _____, of the _____ of _____, in the County of _____
 _____, that certain parcel or tract of land and premises hereinafter
 mentioned, at and for the price or sum of _____ of lawful money of
 Canada, on account of the arrears of taxes alleged to be due
 thereon up to the _____ day of _____, in the year of our Lord, one
 thousand nine hundred and _____, together with the costs:

Now know ye, that we, the said _____ and _____, as Warden
 (or Mayor or Reeve) and Treasurer of the said County (or City or
 Town or Township) in pursuance of such sale, and of *The Assess-
 ment Act*, and for the consideration aforesaid, do hereby grant,
 bargain and sell unto the said _____, his heirs and assigns, all that
 certain parcel or tract of land and premises containing
 being composed of (*describe the land so that the same may be
 readily identified.*)

In witness whereof, we the said Warden (or Mayor or Reeve) and
 Treasurer of the said County (or City or Town or Township) have
 hereunto set our hands and affixed the seal of the said county (or
 City or Town or Township), this _____ day of _____ in the year of
 our Lord one thousand nine hundred and _____; and the Clerk of
 the County (or City or Town or Township) Council has counter-
 signed.

A.B., Warden (or Mayor or Reeve). (*Corporate Seal.*)

C.D., Treasurer.

Countersigned,
 E.F., Clerk.

4 Edw. VII. c. 23, Sched. L.

CHAPTER 196

An Act Respecting Statute Labour.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Statute Labour Act. New.* Short title.

Exemptions.

2. The following persons shall not be liable to perform statute labour or to commute therefor:—

(a) Every person in His Majesty's Naval or Military Service on full pay, or on actual service;

Certain persons in naval and military service, etc., exempt.

(b) Every non-commissioned officer or private of the Volunteer Force, certified by the officer commanding the company to which such volunteer belongs or is attached, as being an efficient volunteer; but this last exemption shall not apply to any volunteer who is assessed for property. 4 Edw. VII. c. 25, s. 2.

[*Firemen exempted in certain cases. See Rev. Stat. c. 201, s. 5 (2).*]

3. The owner or tenant of an island in the lakes not exceeding ten acres in extent and used with the houses erected thereon exclusively as a summer resort, and upon which the owner or his tenants do not reside more than three months in the year, and whereon no statute labour is done, shall not be rated for statute labour, nor shall the owner or tenant thereof be liable for the performance of statute labour or for the payment of commutation thereof for or in respect of such property. 4 Edw. VII. c. 25, s. 3.

Islands used as summer resorts.

Cities, Towns and Villages.

4. Subject to the provisions of section 7, every other male inhabitant of a city, town or village of the age of twenty-one years and upwards, and under sixty years of age, and not otherwise exempted by law from performing statute labour, who has not been assessed upon the assessment roll of the city, town or village, shall, instead of such labour, be taxed at \$1 yearly therefor, to be levied and collected as the council

Who liable and what ratio, in cities, towns and villages.

of the municipality may by by-law direct. 4 Edw. VII. c. 25, s. 4.

Townships.

Liability of persons not otherwise assessed in townships.

5. Subject to the provisions of section 7, every male inhabitant of a township, between the ages aforesaid, who is not otherwise assessed in any municipality in Ontario, and who is not exempt by law from performing statute labour, shall be liable to one day of statute labour on the roads and highways in the township. 4 Edw. VII. c. 25, s. 5.

Farmers' Sons.

Farmer's sons.

6. Every farmer's son entered as such on the assessment roll of any municipality shall, if not otherwise exempted by law, be liable to perform statute labour or commute therefor as if he were not so entered. 4 Edw. VII. c. 25, s. 6.

Reduction or Abolition of Tax.

Power to reduce or abolish statute labour.

7. The council of every city, town, village and township may pass by-laws to reduce or abolish the amount of statute labour to be performed or the amount to be paid in lieu thereof or to entirely abolish such statute labour and the performance thereof by all persons within the municipality. 4 Edw. VII. c. 25, s. 7.

Proof to relieve from tax.

8. Subject to the provisions of section 7, no person shall be exempted from the tax in sections 4 or 5 mentioned unless he produces a certificate that he is assessed elsewhere or that he has performed statute labour or paid the tax elsewhere in Ontario. 4 Edw. VII. c. 25, s. 8.

Performance of Statute Labour.

Ratio of service in case of persons assessed.

9.—(1) Except as hereinafter provided, every person assessed upon the assessment roll of a township shall, if his property is assessed at not more than \$300, be liable to two days' statute labour; at more than \$300 but not more than \$500, three days; at more than \$500 but not more than \$700, four days; at more than \$700 but not more than \$900, five days; and for every \$300 over \$900 or any fractional part thereof over \$150, one additional day; but the council of any township may, by a by-law operating generally and rateably, reduce or increase the number of days' labour to which all the persons, rated on the assessment roll or otherwise, shall be respectively liable so that the number of days' labour to which each person is liable shall be in proportion to the amount at which he is assessed; and in all cases both of residents and non-residents the statute labour shall be rated and charged against every separate lot or parcel according to its assessed value.

Council may reduce or increase the number of days proportionately.

(2) Wherever one person is assessed for lots or parts of several lots in one municipality, not exceeding in the aggregate two hundred acres, the said part or parts shall be rated and charged for statute labour as if the same were one lot, and the statute labour shall be rated and charged against any excess over 200 acres as if the excess were one lot. 4 Edw. VII. c. 25, s. 9 (1-2); 10 Edw. VII. c. 89, s. 1. Amount of statute labour.

(3) In townships where farm lots or portions thereof are owned by non-residents who have not required their names to be entered on the assessment roll, the statute labour shall be commuted by the township clerk in making out the roll required under section 101 of *The Assessment Act*, where such lots are under the value of \$200, to a rate not exceeding one-half per centum on the valuation; but the council may direct a less rate to be imposed by a general by-law affecting such lots. Commutation of statute labour of non-residents.
Rev. Stat. c. 195.

(4) Every resident shall have the right to perform his whole statute labour in the statute labour division in which his residence is situate, unless otherwise ordered by the municipal council. 4 Edw. VII. c. 25, s. 9 (3-4).

[As to the allowance of work in extinguishing bush fires as statute labour, see *The Fires Extinguishment Act*, Rev. Stat. c. 243, s. 3.]

Commutation of Statute Labour.

10. The council of any township may by by-law direct that a sum not exceeding \$1.50 a day shall be paid as commutation of statute labour for the whole or any part of such township, in which case the commutation tax shall be added in a separate column in the collector's roll and shall be collected and accounted for like other taxes. 4 Edw. VII. c. 25, s. 10; 3-4 Geo. V. c. 47, s. 1. Commutation may be at \$1 per day.

11. Any local municipal council may, by by-law passed for that purpose, fix the rate at which persons may commute their statute labour at any sum not exceeding \$1.50 for each day's labour; and the sum so fixed shall apply equally to residents who are subject to statute labour and to non-residents in respect to their property. 4 Edw. VII. c. 25, s. 11; 3-4 Geo. V. c. 47, s. 2. Commutation may be fixed at any sum not exceeding \$1.

12. Where no such by-law has been passed the statute labour in townships, in respect of lands of residents and non-residents, shall be commuted at the rate of \$1 for each day's labour. 4 Edw. VII. c. 25, s. 12. If no by-law commutation to be at \$1.

13.—(1) Every person liable to pay the sum named in section 4 or any sum for statute labour commuted under section 10, shall pay the same to the collector appointed to collect the same within two days after demand therefor by the Payment of tax in lieu of statute labour may be enforced by distress or imprisonment.

collector; and in case of neglect or refusal to pay the same the collector may levy the same by distress and sale of the goods and chattels of the defaulter, with costs of distress; and if no sufficient distress can be found the defaulter, for his refusal or neglect to pay the said sum, shall incur a penalty of \$5.

Performance.

(2) Any person liable to perform statute labour under section 5 not commuted shall perform the same when required so to do by the pathmaster or other officer of the municipality appointed for that purpose, and, in case of wilful neglect or refusal to perform such labour after six days' notice requiring him to do the same, shall incur a penalty of \$5.

Penalty for neglect or refusal.

Penalties to be paid to treasurer of municipality.

(3) All sums and penalties, other than costs, recovered under this section shall be paid to the treasurer of the local municipality and shall form part of the Statute Labour Fund thereof. 4 Edw. VII. c. 25, s. 13.

Non-residents when not permitted to perform statute labour.

14. A non-resident whose name does not appear on the resident assessment roll shall not be permitted to perform statute labour in respect of any land owned by him; but a commutation tax shall be charged against every separate lot or parcel according to its assessed value and be entered in the non-residents collector's roll. In all cases in which taxes on such non-resident lands are paid the municipal council shall order the amount to be expended in the statute labour division in which the property is situate. 4 Edw. VII. c. 25, s. 14.

If resident owner, etc., makes default commutation for statute labour to be entered upon collector's roll.

15.—(1) Where an owner or tenant makes default in performing his statute labour or in payment of commutation for the same, the overseer of highways in whose division he is placed shall return him as a defaulter to the clerk of the municipality before the 15th day of August, and the clerk shall in that case enter the commutation for statute labour against the land in the collector's roll of the current or following year, and the same shall be collected by the collector.

Overseer to expend the commutation money in the division.

(2) In every such case the clerk shall notify the overseer of highways who may be appointed for such division in the following year, or after it has been collected, of the amount of such commutation, and the overseer shall expend the amount of such commutation upon the roads in the statute labour division where the property is situate, and shall give an order upon the treasurer of the municipality to the person performing the work. 4 Edw. VII. c. 25, s. 15.

Statute Labour in Unincorporated Townships—Road Commissioners.

Meeting for election of road commissioners.

16. Twenty resident landholders in any township which has not been incorporated, either alone or in union with

some other township, shall have the right to have a public meeting called for the purpose of electing road commissioners. 4 Edw. VII. c. 25, s. 16.

17. The persons desiring the meeting to be called shall sign a requisition authorizing some person who shall be named in the requisition, and may either reside in the township or otherwise, to call a meeting of the resident landholders of the township for the purpose aforesaid. 4 Edw. VII. c. 25, s. 17. Requisition for meeting.

18. In case the person so named declines to call a meeting or neglects to do so for ten days after the requisition is presented to him, any three of the persons who signed the requisition may call the meeting. 4 Edw. VII. c. 25, s. 18. How meeting may be called in case person named in requisition fails to call it.

19. The notice calling the meeting shall name a place, day and hour for holding the meeting and shall be posted at six places at the least in the township, and the day named shall be at least six days distant from the day of posting the notice. 4 Edw. VII. c. 25, s. 19. Notice of meeting.

20. The election shall take place at the time named, and the number of the commissioners to be elected shall be either three or five, as may be stated in the requisition, unless the meeting, before proceeding to an election, decides that a number different from that stated in the requisition shall be elected, but such number shall not be less than three nor more than five. 4 Edw. VII. c. 25, s. 20. Number of commissioners.

21. In case the meeting is called by the person named in the requisition, he shall be entitled to preside at the meeting as chairman, but if he is absent, or declines to act, the landholders present may appoint another chairman; the chairman shall act as returning officer and shall, in the event of a tie, have a casting vote, although he may have previously voted, or may not be a landholder of the township; the landholders present shall also appoint a secretary who shall record the proceedings. 4 Edw. VII. c. 25, s. 21. Chairman of meeting.

22. The landholders present shall decide how the voting for commissioners shall be conducted; and if the vote is taken openly the commissioners shall be elected one at a time, but if it is decided to proceed by ballot all the commissioners shall be elected together, each person having the right to vote for as many persons as there are commissioners to be elected. 4 Edw. VII. c. 25, s. 22. Mode of voting.

23. The chairman shall, at the request of any two landholders present, direct the secretary to record the names of all persons voting and, unless the vote is by ballot, how each votes. 4 Edw. VII. c. 25, s. 23. Record of persons voting.

Objections to voters.

24. If an objection is made to the right of any person to vote at the meeting, such person shall name the property in respect of which he claims the right to vote, and the chairman shall administer to such person an oath, or affirmation if he be by law permitted to affirm, according to the following form, whereupon such person shall be permitted to vote.

You swear (or, *if the voter is entitled to affirm*, solemnly affirm) that you are of the age of twenty-one years, and that you are the owner or locatee of lot _____ in the concession of this township, and that you are entitled to vote at this election.

So help you God.

4 Edw. VII. c. 25, s. 24.

Terms of office.

25. The commissioners elected shall hold office until the 31st day of December next after their election, and shall take, before a Justice of the Peace, a declaration of office similar to that of a councillor in a municipal corporation. 4 Edw. VII. c. 25, s. 25.

First meeting of commissioners.

26. The commissioners shall meet within a fortnight after their election, and shall then or as soon thereafter as may be, name the roads and parts of roads upon which statute labour is to be performed, and shall appoint the places and times at which the persons required to perform statute labour are to work. 4 Edw. VII. c. 25, s. 26.

Powers of road commissioners as to opening roads.

27.—(1) The commissioners shall have power to open road allowances when the same have been laid down in the original surveys, and where such road allowances are either wholly or partly impracticable to lay out roads in lieu thereof; and where no road allowances are laid down in the original surveys, but five per cent. of the area is reserved for roads, the commissioners may lay out roads where necessary and direct the performance of statute labour accordingly. 61 V. c. 26, s. 1.

Filing plan of roads in Crown Lands Department.

(2) In cases of deviations from road allowances and of roads laid out where there are no road allowances as above provided, the commissioners shall cause a plan thereof, so far as the same affects ungranted lands of the Crown, to be made by an Ontario Land Surveyor and shall file the same in the Department of Lands, Forests and Mines. 61 V. c. 26, s. 3.

Time for performance of statute labour.

28. The times to be appointed for the performance of statute labour shall, unless the meeting of the landholders to elect commissioners otherwise directs, be not earlier than the 20th day of June, nor later than the 20th day of July in any year. 4 Edw. VII. c. 25, s. 27.

Ratio for service by owners and location of land.

29.—(1) Each owner or locatee of land may be required each year to perform two days' labour for every one hundred

acres he holds, and for the first ten acres which he has cleared after the first ten, he may be required to perform one day's additional labour, and for every twenty acres over and above the first ten, one additional day's labour, and each householder may be required each year to perform one day's labour.

(2) Any land owner, owning less than one hundred acres, may be required to perform statute labour as the commis-^{Liability of land owners to statute labour.}sioners may direct, but not exceeding the scale provided for in subsection 1 of this section where the land is in part cleared and not exceeding two days where no part of the land is cleared. 4 Edw. VII. c. 25, s. 28.

30.—(1) Each Commissioner shall, during the time he is^{Commissioners to oversee the work.} required to perform statute labour, act as overseer, and the commissioners shall arrange among themselves for overseeing the various bodies of men engaged in doing statute labour.

(2) A commissioner may be paid out of the commutation^{Payment of commissioners.} fund for not exceeding two days' labour at the rate of \$1.25 per day if performed by him over and above the number of days' labour he may by law be required to perform in respect of his own property.

(3) The commissioners shall have the same powers as^{General powers.} municipal corporations have in reference to statute labour to appoint overseers and require returns to be made to them of the statute labour performed in their districts. 4 Edw. VII. c. 25, s. 29.

31. Any person instead of performing the statute labour^{Commutation.} required of him may commute therefor by payment at the rate of \$1.50 per day, and the commissioners shall expend all commutation money upon the roads on which the labour which is commuted for should have been performed. 4 Edw. VII. c. 25, s. 30; 3-4 Geo. V. c. 47, s. 3.

32. The majority of the commissioners may call a meet-^{Meeting for election of new commissioners.}ing to be held at any time during the month of January for the election of their successors, but in case of their failure so to do a meeting may be called in the manner hereinbefore provided for a first election. 4 Edw. VII. c. 25, s. 31.

33. Any person liable to perform statute labour under^{Penalty for neglect to perform work.} the provisions of sections 16 to 35 who, after six days' notice requiring him to do the same, wilfully neglects or refuses to perform, at the time and place named by the commissioners, the number of days' labour for which he is liable, shall incur a penalty of \$5, and in addition \$1.50 for each day in respect of which he makes default, the same to be paid to the commissioners and to be expended in improving

the said roads. 4 Edw. VII. c. 25, s. 32; 3-4 Geo. V. c. 47, s. 4.

Book to be kept.

34.—(1) The Commissioners shall cause a book to be kept in which there shall be entered the name of every person liable for the performance of statute labour or payment of the commutation and the lot or parcel of land in respect of which he is so liable.

Entry of payment or performance.

(2) Upon the performance of statute labour or payment of the commutation entry shall be made thereof in the book in a column provided for that purpose.

Entry of default.

(3) Where any person after six days' notice in writing from the Commissioners does not perform his statute labour the Commissioners shall cause an entry thereof to be made and in the proper column shall enter the amount of such commutation against the name of the person in default.

Form of roll.

(4) The book shall be kept as nearly as may be in the form of a collector's roll for an organized township.

Return of arrears to Sheriff.

(5) On the first day of June in the year following that in which default was made the Commissioners shall make a return to the Sheriff of the District showing each lot or parcel of land upon which the commutation has not been paid, the name of the owner or locatee, the amount chargeable at the date of the return and the year for which the amount in arrear was imposed.

Sheriff to keep account of arrears.

(6) The Sheriff shall enter the particulars so furnished in a book to be kept by him for that purpose.

Payment of arrears not to be made to commissioners after two years.

(7) The Commissioners shall not receive any payments on account of such arrears after the expiration of two years from the date when the same became due and chargeable, but in the case of payments made within that period the Commissioners shall forthwith notify the Sheriff thereof and the Sheriff shall enter such payment against the proper lot or parcel in the book kept by him for that purpose.

After two years all arrears to be paid to Sheriff.

(8) After the expiration of the said period of two years all arrears shall be payable to the Sheriff and the Sheriff shall enter every payment in the book kept by him and shall return the amount paid to the Commissioners.

Arrears to bear interest.

(9) All arrears chargeable under this section shall bear interest at the rate of ten per cent. per annum.

Sale of land by Sheriff for arrears.

(10) Whenever it appears from the entries in the book kept by the Sheriff that any amount chargeable for statute labour is in arrear for three years from the 31st day of December in the year in which the same became payable, the Sheriff shall proceed to collect the same with interest at the rate aforesaid by the sale of the lands in respect of which such arrears are chargeable and the procedure in relation

to such sale and the provisions applicable to deeds, the redemption of lands thereafter and deeds to be given to tax purchasers shall be the same as nearly as possible as in the case of the sale of lands by the Sheriff for arrears of taxes in organized municipalities in the Provisional Judicial Districts of Muskoka and Parry Sound. 9 Edw. VII. c. 77, s. 1.

35. The Commissioners, when duly elected, shall serve during the term for which they are elected or shall forfeit the sum of \$5, which may be sued for, together with costs, in any Court having jurisdiction by any three electors making the complaint. 4 Edw. VII. c. 25, s. 33.

Penalty for neglect to serve as commissioners.

RECOVERY OF PENALTIES.

36. The penalties imposed by this Act shall be recoverable under *The Ontario Summary Convictions Act*.

Penalties. Rev. Stat. c. 90.

2. MISCELLANEOUS MUNICIPAL MATTERS.

CHAPTER 197.

An Act respecting the Granting of Franchises by Municipal Councils.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Municipal Franchises Act*.
2 Geo. V. c. 42, s. 1.

Interpretation.

2. In this Act,

"Franchises,"

(a) "Franchises" shall include any right or privilege to which this Act applies;

"Highway,"

(b) "Highway" shall include a street and a lane;

"Public utility."

(c) "Public Utility" shall include waterworks, natural and other gas works, electric light, heat or power works, steam heating works, and distributing works of every kind. 2 Geo. V. c. 42, s. 2.

Franchise not to be granted without assent of electors.

3.—(1) The Council of a municipality shall not grant to any individual, firm or company, nor shall any individual, firm or company acquire the right to use or occupy any of the highways of the municipality or to construct or operate any railway, street railway, or public utility in the municipality, or to supply to the corporation, or to the inhabitants of the municipality, or to any of them, gas, including natural gas, electric light, heat or power or steam unless or until a by-law setting forth the terms and conditions upon which and the period for which such right is to be granted has been assented to by the municipal electors, as provided by *The Municipal Act*, with respect to by-laws requiring the assent of the electors.

Rev. Stat. c. 192.

In police villages.

(2) Where the trustees of a police village request the council of the township in which the village is situate to grant any such right with respect to the village, or where the board of trustees of a police village desire to grant such a right it shall be a sufficient compliance with subsection 1

if the by-law receives the assent of the municipal electors of the village.

(3) This section shall apply to the renewal or extension of an existing franchise. 2 Geo. V. c. 42, s. 3. Renewals and extensions.

4.—(1) Where a by-law granting a franchise or right in respect of any of the works or services mentioned in subsection 1 of section 3, which has not been assented to by the municipal electors as provided by that subsection, was passed before the 16th day of April, 1912, no extension of or addition to the works or services constructed, established or operated under the authority of such by-law as they existed and were in operation at that date shall be made except under the authority of a by-law hereafter passed with the assent of the municipal electors, as provided by subsection 1 or subsection 2 of section 3, and such consent shall be necessary notwithstanding that such last mentioned by-law is expressly limited in its operation to a period not exceeding one year. Extension of certain existing works not to be made without by-law.

(2) Subsection 1 shall not apply to any franchise or right granted by or under the authority of any general or special Act of this Legislature before the 16th day of March, 1909, but no such franchise or right shall be renewed, nor shall the term thereof be extended by a municipal corporation except by by-law passed with the assent of the municipal electors as provided in section 3. 2 Geo. V. c. 42, s. 4. Exceptions as to franchises granted before 16th March, 1909.

5. Except where otherwise expressly provided this Act shall not apply to a by-law Exceptions.

- (a) Granting the right of passing through the municipality for the purpose of continuing a line, work or system which is intended to be operated in or for the benefit of another municipality and is not used or operated in the municipality for any other purpose except that of supplying natural gas or electric light or power in a township to persons whose land abuts on a highway along or across which the same is carried or conveyed; Works originating in another municipality.
- (b) Conferring the right to construct, use and operate works required for the transmission of oil, natural gas or water not intended for sale or use in the municipality; Oil, natural gas and waterworks.
- (c) Which is expressly limited in its operation to a period not exceeding one year and is approved by the Ontario Railway and Municipal Board; Limited to one year.
- (d) Of a county or township which is approved by the Lieutenant-Governor in Council. 2 Geo. V. c. 42, s. 5. Counties and townships.

Extensions
of one-year
franchise
from year
to year
prohibited.

6. Where a by-law to which clause (c) of section 5 applies is hereafter passed that clause shall not apply to any subsequent by-law in respect to the same works or any part of them or to an extension of or addition to them, although such subsequent by-law is expressly limited in its operation to a period not exceeding one year, and no such subsequent by-law shall have any force or effect unless it is assented to by the municipal electors as provided by subsection 1 of section 3. 2 Geo. V. c. 42, s. 6.

CHAPTER 198.

An Act respecting Municipal Drainage.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Municipal Drainage Act*. Short title.
10 Edw. VII. c. 90, s. 1.

INTERPRETATION.

2. In this Act,

- (a) "Construction" shall mean, the original opening making, excavating or completing of drainage work; Interpretation.
"Construction."
- (b) "County" shall include a provisional judicial district; "County."
- (c) "County Court" shall include district court; "County Court."
- (d) "Court of Revision" shall mean a court of revision constituted under the provisions of this Act, for the trial of complaints respecting assessments for drainage work; "Court of Revision."
- (e) "Initiating Municipality" shall mean the municipality undertaking the construction of any drainage work to which this Act applies; "Initiating Municipality."
- (f) "Judge" shall mean the senior, junior, or acting Judge of the County or District Court of the county or district in which the municipality assessing lands or roads for a drainage work is situate, but shall not include a Deputy Judge; "County Judge."
- (g) "Maintenance" shall mean the preservation and keeping in repair of a drainage work; "Maintenance."
- (h) "Municipality" shall not include a county municipality; "Municipality."
- (i) "Owner" or "actual owner" shall include the executor or administrator of an owner's estate, the guardian of an infant owner, any person entitled to sell and convey the land, an agent of an owner under a general power of attorney, or under a "Owner,"
"actual owner."

power of attorney empowering him to deal with lands, and a municipal corporation as regards highways under their jurisdiction;

"Referee."

(j) "Referee" shall mean the Referee for the purpose of the drainage laws of Ontario as hereinafter provided;

"Reference."

(k) "Reference" shall mean a reference or transfer to the said Referee under the provisions of this Act;

"Relief."

(l) "Relief" shall mean relieving from liability for causing water to flow upon and injure lands or roads;

"Sufficient outlet."

(m) "Sufficient outlet" shall mean the safe discharge of water at a point where it will do no injury to lands or roads. 10 Edw. VII. c. 90, s. 2.

CONSTRUCTION OF DRAINAGE WORK.

What work may be undertaken on petition.

3.—(1) Upon the petition of the majority in number of the resident and non-resident persons, exclusive of farmers' sons not actual owners, as shown by the last revised assessment roll to be the owners of the lands to be benefited in any area as described in such petition within any township, village, town, or city, to the municipal council thereof, for the drainage of the area as described in the petition by means of drainage work, that is to say, the construction of a drain or drains, the deepening, straightening, widening, clearing of obstructions, or otherwise improving of any stream, creek or watercourse, the lowering of the waters of any lake or pond, or by any or all of such means as may be set forth in the petition, the council may procure an engineer or Ontario land surveyor to make an examination of the area to be drained, the stream, creek, or watercourse to be deepened, straightened, widened, cleared of obstructions or otherwise improved or the lake or pond, the waters of which are to be lowered, according to the prayer of the petition, and to prepare a report, plans, specifications and estimates of the drainage work, and to make an assessment of the lands and roads within said area to be benefited and of any other lands and roads liable to be assessed as hereinafter provided, stating as nearly as may be, in his opinion, the proportion of the cost of the work to be paid by every road and lot or portion of lot for benefit, and for outlet liability and relief from injuring liability as hereinafter defined.

Council to order examination and report by engineer.

When work requires pumping, embanking, etc.

(2) The provisions of this Act shall apply and extend to every case where the drainage work can only be effectually executed by embanking, pumping or other mechanical operation, but in every such case the municipal council shall not proceed except upon the petition of at least two-thirds of the owners of lands within the area described according to the preceding subsection.

(3) If from the lands or roads of any municipality, company or individual, water is by any means caused to flow upon and injure the lands or roads of any other municipality, company or individual, the lands and roads from which the water is so caused to flow may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work required for relieving the injured lands or roads from such water, and to the extent of the cost of the work necessary for their relief as may be determined by the engineer or surveyor, court of revision, county judge, or referee; and such assessment may be termed "injuring liability."

- (a) The owners of the lands or roads thus made liable for assessment shall neither count for nor against the petition required by subsection 1 of this section unless within the area therein described.

(4) The lands and roads of any municipality, company or individual using any drainage work as an outlet, or for which when the work is constructed an improved outlet is thereby provided, either directly or through the medium of any other drainage work or of a swale, ravine, creek or watercourse, may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work so used as an outlet or an improved outlet, and to the extent of the cost of the work necessary for any such outlet, as may be determined by the engineer or surveyor, court of revision, county judge or referee; and such assessment may be termed "outlet liability."

- (a) The owners of the lands and roads thus made liable to assessment shall neither count for nor against the petition required by subsection 1 of this section, unless within the area therein described.

(5) The assessment for injuring liability and outlet liability provided for in the two next preceding subsections shall be based upon the volume, and shall also have regard to the speed, of the water artificially caused to flow upon the injured lands or into the drainage work from the lands and roads liable for such assessments.

(6) Any lands or roads from which the flow of surface water is by any drainage work cut off, may be assessed and charged for same by the engineer or surveyor of the municipality doing the work; and such assessment shall be classified and scheduled as benefit. 10 Edw. VII. c. 90, s. 3.

PETITION FOR CONSTRUCTION.

4. The petition shall be according to Form 1 or to the like effect. 10 Edw. VII. c. 90, s. 4.

DUTIES OF ENGINEER OR SURVEYOR.

Oath of
engineer or
surveyor.

5.—(1) Any engineer or surveyor employed or appointed by any municipal council to perform any work under the provisions of this Act, including the assessment of real property for the purpose of drainage work, shall before entering upon his duty, take and subscribe the following oath, and shall leave the same with, or send it by registered letter post to the clerk of the municipality:

In the matter of the proposed drainage work (*or as the case may be*) in the township of (*name*).

I (*name in full*) of the town of _____ in the county of _____, Engineer (*or Surveyor*) make oath and say, (*or do solemnly declare and affirm*):

That I will, to the best of my skill, knowledge, judgment and ability, honestly and faithfully and without fear of, favour to, or prejudice against any owner or owners, or other person or persons whomsoever, perform the duty assigned to me in connection with the above work and will make a true report thereon.

Sworn before me at the _____ of _____
in the county of _____, this _____
day of _____ A.D. 19 _____ }

A Commissioner, etc. (*or Township Clerk, or J. P.*)

Proceedings
not invalidated
by failure to
take oath.

(2) The failure of the engineer or surveyor to take the oath shall not invalidate any proceedings taken under the provisions of this Act. 10 Edw. VII. c. 90, s. 5.

Assessment
of whole
lot or
sub-division.

6.—(1) The engineer or surveyor, in assessing the lands to be benefited or otherwise liable for assessment under this Act, need not confine his assessment to the part of the lot actually affected, but may place such assessment on the quarter, half or whole lot containing the part affected as the case may be, if the owner of such part is also the owner of such lot or other subdivision.

Apportion-
ment of
assessment
for drainage
work on
sub-division
of land
assessed.

(2) Where part of a whole lot or of a subdivision or portion of a lot assessed by the engineer has been sold since the final revision of the assessment, the owner of the part so sold or the owner of the remaining portion of the lot or subdivision or portion of a lot so assessed, may give notice to the clerk of the municipality that he requires such assessment to be apportioned between the owners of the property so assessed and subdivided, and the township engineer shall thereupon make such apportionment in writing and the same shall be filed with the clerk and shall be by him attached to the original assessment, and shall be binding on the lands assessed in the manner apportioned by the engineer. and the rate shall thereafter be levied and collected accordingly.

(3) The costs of the engineer shall be borne and paid by the parties in the manner which may be fixed or apportioned by such engineer. 10 Edw. VII. c. 90, s. 6.

Assessment
may be
shown in
money.

7. The assessment upon any lands or roads for any drainage work may be shown by the engineer or surveyor placing sums of money opposite the lands or roads, and it shall not be

necessary to insert the fractional part of the whole cost to be borne by the lands or roads. 10 Edw. VII. c. 90, s. 7.

8. The engineer or surveyor, when required by the council, shall make plans, specifications and detailed estimates of the drainage work to be constructed and charge the same to the work as part of its cost. 10 Edw. VII. c. 90, s. 8. Plans, specifications and estimates.

9.—(1) The engineer or surveyor shall in his report and estimates provide for the construction, enlargement or other improvement of any bridges or culverts throughout the course of the drainage work rendered necessary by such work crossing any public highway or the travelled portion thereof; and he shall in his assessment apportion the cost of bridges and culverts between the drainage work and the municipality or municipalities having jurisdiction over such public highway as to him may seem just. Bridges and culverts on highways.

(2) The engineer or surveyor shall also in his report and estimates provide for the construction or enlargement of bridges required to afford access from the lands of owners to the travelled portion of any public highway, and he shall include the cost of the construction or enlargement of such bridges in his assessment for the construction of the drainage work, and they shall, for the purposes of construction and maintenance, be deemed part of the drainage work, and the maintenance thereof may include any enlargement from time to time rendered necessary by the drainage work. Bridges between highways and private lands. Maintenance of bridges.

(3) The engineer or surveyor shall in the same manner provide for the construction or enlargement of bridges rendered necessary by the drainage work upon the lands of any owner, and shall fix the value of the construction or enlargement thereof to be paid to the respective owners entitled thereto, but the land assessed for the drainage work shall not nor shall any municipal corporation be liable for keeping such bridges in repair. Farm bridges.

(4) The engineer or surveyor shall likewise in his report estimate and allow in money to any person, company or corporation the value to the drainage work of any private ditch or drain, or of any ditch constructed under any Act respecting ditches or watercourses which may be incorporated in whole or in part into such drainage work or used therewith. Allowing for private ditches, etc.

(5) The engineer or surveyor shall further in his report determine in what manner the material taken from any drainage work, either in the construction or repair thereof, shall be disposed of, and the amount to be paid to the respective persons entitled for damages to lands and crops, if any, occasioned thereby, and shall include such sums in his estimates of the cost of the drainage work or the repairs. Disposal of material taken from drainage work.

Assessment of compensation for damage to low lands instead of constructing drain to an outlet.

(6) Where, in the opinion of the engineer or surveyor, the cost of continuing the drainage work to a point where the discharge of water will do no injury to lands and roads, or the cost of constructing the drainage work with sufficient capacity to carry off the water, will exceed the amount of injury likely to be caused to low lying lands along the course of, or below the termination of the work, instead of continuing the work to such a point, or constructing it of such capacity, he may include in his estimate of the cost of the drainage work a sufficient sum to compensate the owners of such low lying lands for any injuries they may sustain from the drainage work, and he shall in his report determine the amount to be paid to the respective owners of low lying lands in respect of such injuries.

Appeal to referee

(7) Any owner of lands affected by the drainage work, if dissatisfied with the report of the engineer in respect of any of the provisions of this section, may appeal therefrom to the Referee, and in every such case the notice of appeal shall be served upon the head of the council of the initiating municipality and the clerk thereof within ten days after the adoption of the engineer's report by the council, and the Referee may hear and determine the appeal in a summary manner either on his own view of the premises and after hearing the parties and if he sees fit their witnesses or he may direct that the further proceedings on such appeal shall be as hereinafter provided in other cases of appeals to the Referee; and the Referee, on an appeal under this subsection, may make such order as to him seems just, and his decision shall be final.

Notice to persons assessed.

(8) Forthwith upon the filing of the engineer's report with the clerk of the municipality, the clerk shall, by letter or postal card, notify the parties assessed of such assessment and the amount thereof. In case more than one municipality is interested in the proposed work, the clerk of such other municipalities or municipalities shall forthwith, upon the filing of a copy of the engineer's report in their office, notify the parties assessed of such assessment and the amount thereof, and he shall also in like manner notify each of the owners of lands in respect of which the report provides for compensation of the date of filing the report, the amount awarded to such owner for compensation and the date of the council meeting at which the report will be read and considered.

Notice to owners for whom compensation assessed.

Time for filing report of engineer.

(9) The report of the engineer shall be filed within six months after the filing of the petition, or within such further time as the council may in their discretion from time to time appoint, and the council may adopt the report of the engineer if they see fit notwithstanding that such report is made after the six months herein fixed for making the same or after any extended period fixed by the council under this subsection.

If engineer neglects to do work council may appoint another.

(10) In case the engineer neglects to make his report within the time limited by the preceding subsection, or within the time fixed by the council under that subsection, he shall

forfeit all claim for compensation for the work done by him upon the drain, and the council may employ some other engineer to make the examination, report and assessment required by the preceding section.

(11) A by-law passed by the council of any municipality for the construction of any drainage work under this Act, upon the report of the engineer, shall not be quashed or declared void or illegal by reason only that the report of the engineer has not been filed within six months after the filing of the petition provided for in this Act, or within the extended period provided for in subsection 9. 10 Edw. VII. c. 90, s. 9.

By-law not to be invalid by reason of engineer's report not being filed within six months.

10.—(1) The engineer and his assistants when engaged in the performance of their duties during or after the examination of the locality, may pass over, measure along, ascertain the bearings of any line, plant the stakes which he deems necessary for the performance of the work and take levels on the land of any person.

Power to plant stakes, etc.

(2) Any person who interferes with or obstructs the engineer in the the exercise of the powers conferred by subsection 1, shall incur a penalty not exceeding \$100, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 48, s. 1.

Penalty for obstructing engineer.

Rev. Stat. c. 90.

11. When a drainage work is to be constructed on or along a road allowance the engineer or surveyor shall, upon the application of the municipal council controlling such road allowance, place in his estimate of the cost of the work a sum sufficient to close-chop, or grub and clear not less than twelve feet of the middle of the road allowance, if required, and to spread thereon the earth to be taken from the work, and shall charge the cost thereof to the municipality, together with its proportion of the cost of the drainage work. 10 Edw. VII. c. 90, s. 10.

Spreading earth and removing timber on road allowances.

COVERING DRAINAGE WORK.

12. Where the engineer or surveyor reports in favour of covering the whole or any part of a drainage work constructed under this Act, he shall determine and state in his report the size and capacity thereof and also the material to be used in its construction, and all the provisions of this Act shall apply thereto in the same manner and to the same extent as to an uncovered or open drainage work, but in no case shall the improvement of a creek, stream or natural watercourse be made into a covered drainage work unless it provides capacity for all the surface water from lands and roads draining naturally towards and into it, as well as for all the waters from all the lands assessed for the drainage work. 10 Edw. VII. c. 90, s. 11.

Report on covering drains.

DISTINGUISHING ASSESSMENTS.

Engineer to distinguish assessments.

13.—(1) The engineer or surveyor shall, in his report, assess for benefit, outlet liability and injuring liability, and shall also in his assessment schedule insert the sum charged for each opposite the land and roads liable therefor respectively and in separate columns. 10 Edw. VII. c. 90, s. 12.

Prior assessments to be taken into consideration.

(2) In fixing the sum to be assessed upon any lands or roads the engineer or surveyor may take into consideration any prior assessment on the same lands or roads for drainage work and repairs and make such allowance or deduction therefor as may seem just, and he shall, in his report, state the allowance made by him in respect thereof. 10 Edw. VII. c. 90, s. 13.

Engineer to report as to whether or not other municipalities are interested and how.

14. The engineer or surveyor shall determine and report to the council of the municipality by which he was employed, whether the drainage work shall be constructed and maintained solely at the expense of such municipality and the lands assessed therein, or at the expense of all the municipalities interested, and the lands therein assessed, and in what proportions. 10 Edw. VII. c. 90, s. 14.

FILING REPORT.

Engineer to file report.

15. As soon as the engineer or surveyor has completed his report, plans, specifications, assessments and estimates, he shall file the same with the clerk of the municipality by which he was employed. 10 Edw. VII. c. 90, s. 15.

Engineer or Surveyor to give detailed accounts of service, under oath.

16.—(1) Any engineer or surveyor employed or appointed to perform any work under the provisions of this Act shall, if required so to do by the council by which he was engaged, send in his accounts to such municipalities for his services, under oath, giving detailed information as to the number of days occupied in superintending the drainage work, the number of days engaged in laying out the work, and the number of days engaged in the office making plans and preparing his report, also the number of days on which he was engaged in making assessments and inspecting the work, showing the number of hours occupied in each day; and the account shall also set out whether the work was performed on the works or in the office, and whether the time so occupied was the time of the engineer himself, or that of a clerk or assistant.

Audit of account.

(2) The account upon the written request of the municipal council or of any person assessed, to be filed with the clerk of the municipality, shall be audited by the judge free of charge.

Appointment to proceed.

(3) The clerk shall deliver the account to the judge, who shall appoint a time and place at which he will proceed with the audit.

(4) The clerk shall give at least two days' notice of such ^{Notice.} audit to the engineer or surveyor and the head of the municipality, as well as to any person requiring the audit.

(5) At the time and place named in such appointment the judge shall audit the account, and may disallow any charges ^{Procedure on audit.} which he may deem unreasonable, and shall certify thereon the amount to which, in his opinion, the engineer or surveyor is entitled, and the amount disallowed shall not be recoverable by the engineer or surveyor. 10 Edw. VII. c. 90, s. 16.

NOTICE TO PERSONS ASSESSED.

17. The clerk of the municipality shall notify all parties ^{Clerk to} assessed within the area described in the petition, by mailing ^{notify} to the owner of every parcel of land assessed therein for the ^{parties} drainage work, a circular or postal card upon which shall be ^{assessed.} stated the date of filing the report, the name or other general designation of the drainage work, its estimated cost, the owner's land and its assessment, distinguishing benefit, outlet liability and injuring liability, and the date of the council meeting at which the report will be read and considered, which shall be not less than ten days after the mailing of the last of such circulars or postal cards, and the determination of the council as to the sufficiency of notice or otherwise shall be final and conclusive. 10 Edw. VII. c. 90, s. 17.

CONSIDERATION OF REPORT.

18. The municipal council shall at the meeting mentioned in such notice, immediately after dealing with the minutes of ^{Proceedings} its previous meeting, cause the report to be read by the clerk ^{at meeting} to all the ratepayers in attendance, and shall give an opportunity to any person who has signed the petition to withdraw ^{for consideration} from it by putting his withdrawal in writing, signing the same and filing it with the clerk, and shall also give those present who have not signed the petition an opportunity so to do; and should any of the roads of the municipality be assessed, the council may by resolution authorize the head or acting head of the municipality to sign the petition for the municipality, and such signature shall count as that of one person benefited in favour of the petition. 10 Edw. VII. c. 90, s. 18.

19. The council at any time before the final passing of the by-law, if it appears that there are or may be errors in the report or assessment of the engineer or that for any other ^{Referring} reason the report or assessment should be reconsidered, may ^{report back} refer the report back to him for re-consideration, and the ^{to engineer} engineer may thereupon re-consider his report and assessment and shall report to the council, and the report shall have the same effect and shall be dealt with in the same manner and the proceedings thereon shall be the same as upon ^{for re-consideration.}

the original report or assessment, and it shall not be necessary that the engineer shall make any further oath or declaration. 10 Edw. VII. c. 90, s. 19.

EFFECT OF WITHDRAWAL FROM PETITION.

Withdraw-
ing from
petition.

20. Should the petition at the close of such meeting of the council contain the names of the majority of the persons shown as aforesaid to be owners benefited within the area described in such petition, the council may proceed to adopt the report and pass a by-law authorizing the work, and no person having signed the petition shall, after the adoption of the report, be permitted to withdraw; but if after striking out the names of the persons withdrawing, the names remaining, including the names, if any, added as provided by section 18, do not represent a sufficient number of owners within the area described to comply with the provisions of section 3, then the persons who have withdrawn from the petition shall on their respective assessments in the report, with one hundred per centum added thereto, together with the other original petitioners on their respective assessments in the report, be, *pro rata*, chargeable with and liable to the municipality for the expenses incurred by the municipality in connection with such petition and report, and the sum with which each of such owners is chargeable shall be entered upon the collector's roll for such municipality against the lands of the person liable, and shall be collected in the same manner as taxes placed on the roll for collection. 10 Edw. VII. c. 90, s. 20.

Certain by-
laws con-
firmed.

21. A by-law heretofore or hereafter passed shall not be deemed invalid or illegal by reason only that the petition therefor was not sufficiently signed if such petition was duly signed by a majority in number of the resident and non-resident persons, exclusive of farmers' sons not actual owners, shown by the last revised assessment roll to be the owners of the lands to be benefited in the area described in such petition. 10 Edw. VII. c. 90, s. 21.

BY-LAWS.

What by-laws
may be
passed by
council.

22. Should the council of the municipality in which the lands and roads described in the petition lie be of the opinion that the drainage work proposed in the petition, or a portion thereof, would be desirable, the council may pass a by-law or by-laws:—

Doing Work and Borrowing Money.

Providing
for work.

1. For providing for the construction of the proposed drainage work or a portion thereof, as the case may be.

Borrowing
funds.

2. For borrowing on the credit of the municipality the funds necessary for the work, or the portion to be contributed by the initiating municipality when the same is to be con-

structed at the expense of two or more municipalities, and for issuing the debentures of the municipality to the requisite amount, including the costs of appeal, if any, in sums of not less than \$50 each, and payable within twenty years from date, except in case of pumping and embanking drainage work, the debentures for which shall be payable within thirty years from their date, with interest at a rate of not less than four per centum per annum.

Assessing Lands and Roads.

3. For assessing and levying, in the same manner as taxes Assessing lands and roads. are levied, upon the lands and roads, including roads held by joint stock companies, railway companies, private individuals, counties or county councils, to be benefited by the work and otherwise liable for assessment under this Act in the municipality passing the by-law, a special rate sufficient for the payment of the principal and interest of the debentures, and for so assessing, levying and collecting the same as other taxes are assessed, levied and collected, in proportion as nearly as may be, to their respective liability to contribute.

4. For regulating the times and manner in which the assessments shall be paid. Fixing time for paying assessment.

Determining Assessment Liability.

5. For determining what lands and roads will be benefited Determining property to be benefited. by or otherwise rendered liable for assessment for the drainage work, and the proportion in which the assessment should be made, subject in every case of complaint by the owner or any person interested in any lands or roads to appeal as hereinafter provided. 10 Edw. VII. c. 90, s. 22.

FORM OF BY-LAW.

23. The by-law shall, varying with the circumstances, be Form of by-law. according to Form 2 or to the like effect. 10 Edw. VII. c. 90, s. 23.

PUBLICATION OF BY-LAW.

24.—(1) Before the final passing of the by-law, it shall be Publication of by-law and notice of sitting of Court of Revision. published once in every week for four consecutive weeks in a newspaper published in the municipality or in the county town, or in an adjoining or neighbouring municipality, and designated by resolution of the council, with a notice of the time and place of holding the court of revision, and also a notice that any one intending to apply to have the by-law or any part thereof quashed, must, not later than ten days after the final passing thereof, serve a notice in writing upon the reeve or other head officer and the clerk of the municipality, of his intention to make application for that purpose to the Referee during the six weeks next after the final passing of the by-law.

Newspapers
to be sent to
each person.
assessed.

(2) The clerk shall furnish the publisher of the newspaper with the names and post office addresses of all persons within the municipality whose lands are assessed for the drainage work, and the publisher shall mail or cause to be mailed to each owner, to such post office address, the first two issues of the newspaper containing the by-law, and the publisher or person mailing such newspapers shall make a statutory declaration of such mailing and file the same with the clerk of the municipality publishing the by-law. 10 Edw. VII. c. 90, s. 24.

Service in
lieu of
publication.

25. The council may, at its option, instead of publishing in a newspaper, by resolution, direct that a copy of the by-law, including the notice of the sitting of the court of revision, and notice as to proceedings to quash, written or printed, or partly written and partly printed, be served upon each of the assessed owners, or their lessees or the occupant of their lands, or the agent of such owner, or be left on the lands, if occupied, with some grown-up person; and if the lands are unoccupied and the owner or his agent does not reside within the municipality, the council may cause a copy of the by-law and notices to be sent by registered letter to the last known address of such owner; and a statutory declaration shall be made by the person effecting any service or mailing any such registered letter, showing the manner and date of effecting the service or mailing the registered letter; and such declaration shall be filed by the person making the same, with the clerk of the municipality passing the by-law. 10 Edw. VII. c. 90, s. 25.

If by-law
or part
thereof not
quashed
within time
limited.

26. In case no notice of the intention to make application to quash a by-law is served within the time limited for that purpose in the notice attached to the by-law, or where the notice is served, then if the application is not made or is unsuccessful in whole or in part, the by-law, or so much thereof as is not quashed, so far as the same ordains, prescribes or directs anything within the proper competence of the council to ordain, prescribe or direct, shall, notwithstanding any want of form or substance either in the by-law itself or in the time or manner of passing the same, be a valid by-law. 10 Edw. VII. c. 90, s. 26.

COURT OF REVISION.

Constitution and Powers.

Where council
has not more
than five
members.

27. If the council of the municipality consists of not more than five members, such five members shall be a court for the revision of the assessments for the drainage work. 10 Edw. VII. c. 90, s. 27.

Where council
has more
than five
members.

28. If the council consists of more than five members, it shall appoint five of its members to constitute the court of revision. 10 Edw. VII. c. 90, s. 26.

29. Every member of the court of revision shall, before entering upon his duties, take and subscribe before the clerk of the municipality the following oath, or affirmation in cases where by law affirmation is allowed:

I, _____, do solemnly swear (or affirm), that I will to the best of my judgment and ability, and without fear, favor or partiality, honestly decide the appeals to the Court of Revision from the assessments appearing in a by-law (*here set out title of by-law*), which may be brought before me for trial as a member of such Court.

10 Edw. VII. c. 90, s. 29.

30.—(1) Three members of the court of revision shall constitute a quorum, and the majority of a quorum may decide all questions before the court. Quorum.

(2) No member of the court shall act as a member thereof while any appeal is being heard respecting any lands in which he is directly or indirectly interested, save and except roads and lands under the jurisdiction of the municipal council. Members not to sit on appeals when interested.

10 Edw. VII. c. 90, s. 30.

31.—(1) The clerk of the municipality shall be the clerk of the court, and shall record the proceedings thereof and shall issue summonses to witnesses to attend any sittings of the court. Clerk of court.

(2) The summons to any witness issued by the clerk under this section may be in the following form:— Form of summons.

You are hereby required to attend and give evidence before the Court of Revision at _____ on the _____ day of _____

19____, in the matter of the drainage work (*naming or describing work*) and of the following appeal.

Appellant (*name of*).

A. B.

Clerk of the Township of _____

(3) The fees payable to any witness on an appeal to the court of revision shall be according to the scale of witness fees in the division court. Witness fees.

32. At the time appointed, the court shall meet and try all complaints in regard to owners wrongly assessed or omitted from assessment or assessed at too high or too low an amount, and the court may adjourn from time to time as required. Meeting and adjournments.

33. The evidence of witnesses shall be taken on oath and any member of the court may administer an oath to any party or witness. Evidence.

34. If any person summoned to attend the court of revision as a witness fails, without good and sufficient reason, to attend, having been tendered the proper witness fees, he shall incur a penalty of \$20 to be recovered with costs, by and to the use of any person suing for the same, either by suit in the Witness failing to attend when summoned.

proper division court, or in any way in which penalties incurred under any by-law of the municipality may be recovered. 10 Edw. VII. c. 90, s. 34.

Procedure for Trial of Complaints.

Who may
give notice
of appeal.

35. Any owner of land, or, where roads in the municipality are assessed, any ratepayer, complaining of overcharge in the assessment of his own land, or of any roads of the municipality, or of the undercharge of any other lands, or of any road in the municipality, or that lands or roads which should have been assessed, have been omitted from the assessment, may personally, or by his agent, give notice in writing to the clerk of the municipality, that he considers himself aggrieved for any or all the causes aforesaid. 10 Edw. VII. c. 90, s. 35.

Time for
holding
Court of
Revision.

36. The trial of complaints shall be had in the first instance by and before the court of revision of the municipality in which the lands and roads assessed are situate, and the first sitting of such court shall be held pursuant to notice on some day not earlier than twenty nor later than thirty days from the day on which the by-law was first published, or from the date of completing the services or mailing of a printed copy of the by-law, as the case may be; notice of the first sitting of the court shall be published or served with the by-law, but the court may adjourn from time to time as occasion may require; and all notices of appeal shall be served on the clerk of the municipality at least ten days prior to the first sitting of the court; but the court may, though notice of appeal has not been given, by resolution passed at its first sitting, allow an appeal to be heard on such conditions as to giving notice to all persons interested or otherwise as may be just. 10 Edw. VII. c. 90, s. 36.

Adjournments
and notices
of appeal.

Form of
notice of
complaint.

37. If any complaint is made on the ground that any lands or roads have been assessed too low or wrongly omitted from assessment by the engineer or surveyor, the clerk shall give notice of the complaint and the time of the trial to the owner or person interested in such lands, or in the case of roads to the reeve or other head of the municipality; which notice shall be in the form following or to the like effect:

Take notice that you are required to attend before the Court of Revision at _____ on the _____ day of 19____, in the matter of the following appeal:—

Appellant (*name of*).

Subject—That you are assessed too low (*or as the case may be*) for drainage work (*naming the drainage work*).

To J. K.

(Signed.)

X. V.,

Clerk.

38. The notice in the preceding section mentioned shall be sent by letter addressed to such person at his post office address or at his last known address, at least seven days before the first sitting of the court. 10 Edw. VII. c. 90, s. 38.

39. The clerk of the court shall enter the appeals on a list in the order in which they are received by him, and the court shall proceed with the appeals in the order, as nearly as may be, in which they are so entered, but may grant an adjournment or postponement of any appeal. 10 Edw. VII. c. 90, s. 39.

40. Such list may be in the following form:—

Form of
list of
appeals.

Appeals from the assessment of the engineer on drainage work, to be heard at the Court of Revision to be held at , commencing at 10 o'clock in the forenoon on the day of 19 .

Appellant.	Omitted or wrongly assessed.	Matter complained of.
A. B.....	Self.....	Overcharged for benefit.
C. D.....	Self.....	Overcharged for outlet.
E. F.....	Self.....	Overcharge for injuring.
G. H.....	J. R.....	Undercharge for benefit.
L. M.....	N. O.....	Undercharge for outlet.
P. Q.....	R. S.....	Undercharge for injuring.
T. U.....	V. W.....	Wrongly omitted.
X. Y.....	Self.....	Wrongly assessed.
etc.	etc.	etc.

10 Edw. VII. c. 90, s. 40.

41. In case any lands or roads have been assessed for the construction or repair of a drainage work, and the same property is afterwards assessed by the engineer or surveyor for the construction or repair of any other drainage work, the court of revision or judge may take into consideration any prior assessment for drainage work on the same property and give such effect thereto as may be just. 10 Edw. VII. c. 90, s. 41.

42. When the ground of complaint is, that lands or roads are assessed too high, and the evidence adduced satisfies the court of revision or judge that the assessments on such lands or roads should be reduced, but no evidence is given of other lands or roads assessed too low or omitted, the court or judge shall adjourn the hearing of such appeal, for a time sufficient to enable the clerk to notify by postal card or letter all persons affected of the date to which such hearing is adjourned; the clerk shall so notify all persons interested, and unless they appear and show cause against the reduction of the assessment appealed against or the increase of their own, the court or judge may dispose of the matter of appeal in such manner as may be just, and the sum by which the assessment appealed against is reduced, if any, may be distributed pro rata over the assessments of its own class or otherwise so as to do justice to all parties. 10 Edw. VII. c. 90, s. 42.

Notice of
result of
appeal.

43. The clerk shall by registered letter immediately after the close of the court, notify all appellants of the result of their appeals and also of the date of the closing of the court of revision. 10 Edw. VII. c. 90, s. 43.

Appeals from Court of Revision.

Appeal to
County
Judge.

44. An appeal from the court of revision shall lie to the judge, not only against a decision of the court of revision, but also against the omission, neglect or refusal of the court to hear or decide an appeal. 10 Edw. VII. c. 90, s. 44.

Time for
giving notice
of appeal.

45. The person appealing shall, in person or by solicitor or agent, file with the clerk of the municipality within ten days after the date of the closing of the court of revision, a written notice of his intention to appeal to the judge. 10 Edw. VII. c. 90, s. 45.

Clerk to
notify
Judge and
Judge to
fix time
and place
for hearing
appeals.

46. The clerk shall immediately after the time limited for filing appeals, forward a list of the same to the judge, who shall then notify the clerk of the day he appoints for the hearing thereof and shall fix the place for holding such hearing at the town hall or other place of meeting of the council of the municipality from the court of revision of which the appeal is made, unless the judge for the greater convenience of the parties and to save expense fixes some other place for the hearing. 10 Edw. VII. c. 90, s. 46.

Notice to
persons
appealed
against.

47. The clerk shall thereupon give notice to all parties appealed against, in the same manner as is provided for giving notice on a complaint to the court of revision, but in the event of failure by the clerk to give the required notice, or to have the same given within proper time, the judge may direct notice to be given for some subsequent day upon which he may try the appeals. 10 Edw. VII. s. 90, s. 47.

Time for
giving
judgment.

48. At the court so holden the judge shall hear the appeals and may adjourn the hearing from time to time, but shall deliver judgment not later than 30 days after the hearing. 10 Edw. VII. c. 90, s. 48.

Clerk of
Court.

49.—(1) The clerk of the municipality shall be the clerk of such court, and shall record the proceedings thereof and shall have the like powers as the clerk of a division court as to the issuing of subpoenas to witnesses upon the application of any party to the proceedings or upon an order of the judge, for the attendance of any person as a witness before him.

Witness fees.

(2) The fees to be allowed to witnesses upon an appeal to the judge under this Act shall be those allowed to witnesses in an action in the division court. 10 Edw. VII. c. 90, s. 49.

Powers of
Judge on
appeal.

50. In all proceedings before the judge as aforesaid, he shall possess all such powers for compelling the attendance of

and for the examination on oath of all parties, and all other persons whomsoever, and for the production of books, papers and documents, and for the enforcement of his orders, decisions and judgments as belong to or might be exercised by him in the division court or county court. 10 Edw. VII. c. 90, s. 50.

Fees and costs of Appeals.

51. The costs of any proceeding before the court of revision, or before the judge as aforesaid, shall be paid or apportioned between the parties in such manner as the court or judge thinks fit, and the same shall be enforced when ordered by the court of revision by a distress warrant under the hand of the clerk and the corporate seal of the municipality, and when ordered by the judge, by execution to be issued as the judge may direct, either from the county court or any division court within the county in which the municipality is situate. 10 Edw. VII. c. 90, s. 51.

Apportionment of costs—enforcing payment.

52. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance and none other, and the same shall be taxed according to the allowance in the division court for such costs, and in cases where execution issues, the costs thereof as in the like court, and of enforcing the same, may also be collected thereunder. 10 Edw. VII. c. 90, s. 52.

What costs may be awarded—taxation of.

53. The judge shall be entitled to receive from the municipality as his expenses for holding court in any place in the municipality, other than the county town, for the hearing of appeals from the court of revision, \$5 per day and disbursements necessarily incurred. 10 Edw. VII. c. 90, s. 53.

Fees and expenses of Judge.

54. The decision of the judge shall be final and conclusive. 10 Edw. VII. c. 90, s. 54.

Decision to be final.

55. Any change in the assessment of the engineer or surveyor made by the court of revision or by the judge in appeal therefrom shall be given effect to by the clerk of the municipality altering the assessments and other parts of the schedule to comply therewith, and the by-law shall, before the final passing thereof, be amended to carry out any changes so made by the court of revision or judge. 10 Edw. VII. c. 90, s. 55.

Clerk to alter assessments conformably with result of appeals.

ISSUE OF DEBENTURES.

56. Any municipal council issuing debentures under this Act may include the interest on the debentures in the amount payable, in lieu of the interest being payable annually in respect of each debenture, and any by-law authorizing the issue of debentures for a certain amount and interest, shall be taken to authorize the issue of debentures in accordance with this section, to the same amount with interest added. 10 Edw. VII. c. 90, s. 56.

Debentures may include principal and interest in one sum.

Payment of
assessment
before debentures
issued.

57. Any owner of lands or roads, including the municipality, assessed for the work, may pay the amount of the assessment against him or them, less the interest, at any time before the debentures are issued, in which case the amount of debentures shall be proportionately reduced. 10 Edw. VII. c. 90, s. 57.

Informalities
not to
invalidate
debentures.

58. No debentures issued under any by-law for the construction or maintenance of any drainage work shall be held to be invalid on account of the same not being expressed in strict accordance with such by-law, provided that the debentures are for sums in the aggregate not exceeding the amount authorized by the by-law. 10 Edw. VII. c. 90, s. 58.

When
debentures
to be valid
and binding to
shall be good
to the extent
of amount
advanced.

59. Any debentures issued and sold to provide any sum of money for the construction or repair of any drainage work shall be good in the hands of the purchaser, and be binding upon the corporation issuing them, to the extent of the money actually advanced on the security and interest thereon, according to the provisions of the same, provided no application to quash be made within six weeks from the final passing of the by-law authorizing the issue thereof, notwithstanding that the by-law is afterwards quashed or declared illegal in any proceedings. 10 Edw. VII. c. 90, s. 59.

WORK NOT CONTINUED INTO ANOTHER MUNICIPALITY.

Assessment
of lands which
are benefited.

60.—(1) Where any drainage work is not continued into any other than the initiating municipality, any lands or roads in the initiating municipality or in any other municipality, or roads between two or more municipalities, which will, in the opinion of the engineer or surveyor, be benefited by such work or furnished with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, may be assessed for such proportion of the cost of the work as to the engineer or surveyor seems just.

When work
not deemed
out of
initiating
municipality.

(2) A drainage work shall not be deemed to be continued into a municipality other than the initiating municipality merely by reason of such drainage work or some part thereof being constructed on a road allowance forming the boundary line between two or more municipalities. 10 Edw. VII. c. 90, s. 60.

Where area
lies in
either side
of boundary
road.

61. Where it is necessary to construct a drainage work for the drainage of an area composed of lands or roads lying on either side of a boundary line between two municipalities, the council of either municipality may proceed upon a petition of the majority of the owners of lands or roads within such area in all respects as if such area were entirely within the limits of such municipality. 10 Edw. VII. c. 90, s. 61.

62. Where it is necessary to construct any drainage work or any part thereof on a road allowance used as a boundary line between two or more municipalities, the municipal council of each of the adjoining municipalities may, on the petition of the majority of owners in the area therein described and within its own limits, authorize the same to be constructed on the allowance for road between the municipalities, and may make the road as provided by section 11, and the engineer or surveyor may assess and charge the lands and roads benefited or otherwise liable to assessment in the adjoining municipality or municipalities, as well as the road allowance, with such proportion of the cost of constructing such work as he may deem just. 10 Edw. VII. c. 90, s. 62.

Construction
of drainage
work on
road allow-
ance.

WORK CONTINUED INTO ANOTHER MUNICIPALITY.

63. Where it is required to continue any drainage work beyond the limits of the municipality, the engineer or surveyor employed by the council of such municipality may continue the work on or along or across any allowance for road or other boundary between any two or more municipalities, and from any such road allowance or other boundary into or through any municipality until he reaches a sufficient outlet; and in every such case he may assess and charge regardless of municipal boundaries, all lands and roads to be affected by benefit, outlet or relief, with such proportion of the cost of the work as to him may seem just; and in his report thereon he shall estimate separately the cost of the work within each municipality and upon the road allowances or other boundaries. 10 Edw VII. c. 90, s. 63.

Continuing
work
beyond the
limits of
municipality.

64. Wherever any lands or roads in or under the jurisdiction of any adjoining or neighbouring municipality, other than the municipalities into or through which the drainage work passes, are, in the opinion of the engineer or surveyor of the initiating or other municipality doing the work or part thereof, benefited by the drainage work or provided with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, he may assess and charge the same as is provided in the next preceding section. 10 Edw. VII. c. 90, s. 64.

Assessing
land in
neighbouring
municipality
when work
does not enter
same.

SETTLING ASSESSMENTS, ETC., BETWEEN MUNICIPALITIES.

65. The council of any initiating municipality shall serve the head of the municipality or municipalities into or through which the work is to be continued, or whose lands or roads are assessed without the drainage work being continued into it, with a copy of the report, plans, specifications, assessments and estimates of the engineer or surveyor on the proposed work, and unless the same are appealed from as hereinafter provided, they shall be binding on each and every corporation whose

Council of
initiating
municipality
to notify other
municipalities
to be affected

council is so served, and the council of the initiating municipality shall be entitled, in the event of no appeal, to proceed with the by-law, and authorize and construct or procure the construction of the whole drainage work in accordance therewith. 10 Edw VII. c. 90, s. 65.

Municipality notified to raise and pay over its proportion of cost.

66. The council of the municipality so served, shall in the same manner as nearly as may be, and with such other provisions as would have been proper if a majority of the owners of the lands to be taxed had petitioned as provided in section 3, pass a by-law or by-laws to raise, and shall raise and pay over to the treasurer of the initiating municipality within four months from such service, the sum that may be named in the report as its proportion of the cost of the drainage work, or, in the event of an appeal from the report, the sum that may be determined by the Referee or a Divisional Court; and such council shall hold the court of revision for the adjustment of assessments upon its own ratepayers in the manner hereinbefore provided. 10 Edw. VII. c. 90, s. 66.

Appeal to referee from report of engineer.

67.—(1) The council of any municipality served as provided by section 65 may, within six weeks after such service upon its head, appeal to the Referee from the report, plans, specifications, assessments and estimates of the engineer or surveyor, by serving the head of the council from which they received the copy, and also the head of the council of any other municipality assessed by the engineer or surveyor with a written notice of appeal, setting forth therein the reasons for such appeal.

Grounds of appeal.

(2) The reasons of appeal which shall be set out in such notice may be the following or any of them:—

(a) Where the assessment against the appealing municipality exceeds \$1,000, or exceeds the estimated cost of the work in the initiating municipality,—

1. That the scheme of the drainage work as it affects the appealing municipality should be abandoned or modified, on grounds to be stated;
2. That such scheme does not provide for a sufficient outlet;
3. That the course of the drainage work, or any part thereof, should be altered;
4. That the drainage work should be carried to an outlet in the initiating municipality or elsewhere.

(b) In any case not otherwise provided for.

1. That a petition has been received by the council of the appealing municipality, as provided by section 3, from the majority of the owners within the area described in the petition, praying for the enlargement by the appealing municipality of

any part of the drainage work lying within its limits, and thence to an outlet, and that the council is of opinion that such enlargement is desirable to afford drainage facilities for the area described in the petition;

2. That such appealing municipality objects to paying over its proportion of the cost of the work to the treasurer of the initiating municipality;
3. That the initiating municipality should not be permitted to do the work within the limits of the appealing municipality;
4. That the assessment against lands and roads within the limits of the appealing municipality and roads under its jurisdiction is illegal, unjust or excessive. 10 Edw. VII. c. 90, s. 67.

68.—(1) Upon an appeal under the preceding section the Referee shall hear and adjudicate upon all questions raised by the notice of appeal, as they may affect any municipality assessed for the drainage work; and he may give to any municipality through or into which the proposed work will be continued, leave to enlarge the same, pursuant to petition in that behalf and according to the report, plans, specifications, assessments and estimates of an engineer appointed by the Referee for that purpose, and may make such order in the premises and as to costs already incurred, and as to costs of the appeal as may seem just.

(2) The order of the Referee upon such appeal shall be subject to appeal to a Divisional Court as in other cases, and the decision of such Court shall be final and conclusive as to all corporations affected thereby.

(3) The council of the initiating municipality may, by resolution passed within thirty days after the decision of the Referee on the appeal to him or in case of an appeal therefrom after the hearing and determination thereof, abandon the proposed drainage work, subject to such terms as to costs and otherwise as to the Referee or the Divisional Court may seem just. 10 Edw. VII. c. 90, s. 68.

AMENDING BY-LAWS.

69.—(1) Any by-law heretofore passed or which may be hereafter passed by the council of any municipality for the assessment upon the lands and roads liable to contribute for any drainage work and which has been acted upon by the doing of the work in whole or in part, but does not provide sufficient funds to complete the drainage work or the municipality's share of the cost thereof, or does not provide sufficient funds for the redemption of the debentures authorized to be issued thereunder as they become payable, may from time to time be amended by the council, and further debentures may be issued thereunder as they become payable, ^{Amendment of by-law when insufficient funds provided.}

tures may be issued under the amending by-law in order to fully carry out the intention of the original by-law.

When lands and roads in another municipality assessable.

(2) Where in any such case lands and roads in another municipality are assessed for the drainage work, the council of the initiating municipality shall procure an engineer or surveyor to make an examination of the work and to report upon it with an estimate of the cost of completion for which sufficient funds have not been provided under the original by-law, and shall serve the heads of the other municipalities as in the case of the original report, plans, specifications, assessments and estimates; and the council of any municipality so served shall have the same right of appeal to the Referee as to the improper expenditure or illegal or other application of the drainage money already raised and shall be subject to the same duty as to raising and paying over its share of the money to be raised, as, in the case of the original by-law, is provided by sections 66 and 67.

Amendment of by-law which provides more than sufficient funds and distribution of surplus.

(3) Any by-law for the assessment upon the lands and roads liable to contribute for any drainage work and acted upon by the completion of the work, which provides more than sufficient funds for the completion of or proper contribution towards the work or for the redemption of the debentures authorized to be issued thereunder as they become payable shall be amended, and if lands and roads in any other municipality are assessed for the drainage work the surplus money shall be divided *pro rata* among the contributing municipalities, and every such surplus until wholly paid out shall be applied by the council of the municipality *pro rata* according to the assessment in payment of the rates imposed by it for the work in each and every year after the completion of the work.

Amendment of by-law not providing sufficient funds.

(4) Any by-law passed prior to the 1st day of June, 1894, by the council of any county or union of counties for the assessment of the cost of any drainage work upon the lands and roads liable to contribute therefor which has been acted upon by the doing of the work in whole or in part and which does not provide sufficient funds to complete the drainage work, or the share of the said county or union of counties of the cost thereof, or does not provide sufficient funds for the redemption of the debentures issued under such by-law, as they become payable, may from time to time be amended by the council and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law; provided that every such drainage work shall, when fully completed, be maintained as provided in section 73. 10 Edw. VII. c. 90, s. 69.

Issuing debentures for completion of county drainage works commenced before 57 V. c. 58.

Publication of amending by-laws.

Rev. Stat. c. 43.

70. It shall be in the discretion of the council whether an amending by-law passed under any of the provisions of the preceding section shall be published or not, and the provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under the authority of that section, which have heretofore been or may hereafter be purchased by direction of the Lieutenant-Governor in Council. 10 Edw. VII. c. 90, s. 70.

MAINTENANCE OF DRAINAGE WORK.

71. Any drainage work constructed under a by-law of any municipality passed in pursuance of this or any former Act relating to the construction of drainage work by local assessment, and which is not continued into any other municipality, shall after the completion thereof be maintained by the initiating municipality, ^{Maintenance of work not continued into another municipality.}

- (a) If no lands or roads in any other municipality are assessed for the construction thereof, then at the expense of the lands and roads in the initiating municipality in any way assessed for such construction, according to the assessment of the engineer or surveyor in his report and assessment for the original construction of such drainage work, or,
- (b) If lands or roads in any other municipality or roads between two or more municipalities are in any way assessed for the construction of such drainage work, then at the expense of all the lands and roads in any way assessed for such construction in the municipalities affected, and in the proportion determined by such report and assessment, or in appeal therefrom by the award of arbitrators or order of the referee,—

Unless or until such assessment or proportion as the case may be, is varied or otherwise determined from time to time by the report and assessment of an engineer or surveyor for the maintenance of the drainage work, or in appeal therefrom by the order of the Referee. 10 Edw. VII. c. 90, s. 71.

72. Any drainage work heretofore constructed under a by-law of a municipality, passed in pursuance of any Act relating to the construction of any drainage work by local assessment, or hereafter constructed under the provisions of this Act, which is continued into or through more than one municipality, or which is commenced by the initiating municipality on a road allowance adjoining such municipality and is continued thence into the lands of any other municipality shall after the completion thereof be maintained by the initiating municipality from the point of commencement of the drainage work in the municipality or upon such road allowance to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, and by such last mentioned municipality and by every other municipality through or into which the drainage work is continued from the point at which the drainage work crosses the boundary line between a road allowance and lands in the municipality to an outlet in the municipality or on a road allowance adjoining the municipality, or to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, as the case may be, at the expense of the lands and roads in ^{a Maintenance of drainage work passing into another municipality.}

any way assessed for the construction thereof and in the proportion determined by the engineer or surveyor in his report and assessment for the original construction or in appeal therefrom by the award of the arbitrators or order of the Referee, unless and until, in the case of each municipality, such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the drainage work in appeal therefrom by the order of the Referee. 10 Edw. VII. c. 90, s. 72.

Maintenance of drains constructed by government or under county by-laws.

73.—(1) Where a drainage work constructed before the 5th day of May, 1894, under the provisions of *The Ontario Drainage Act*, being chapter 36 of the Revised Statutes of Ontario, 1887, or any Act in amendment thereof or under a by-law passed by a county council does not extend beyond the limits of one municipality, such drainage work shall be maintained and kept in repair by such municipality at the expense of the lands and roads in any way liable to assessment under the provisions of this Act.

When such drains extend into another municipality.

(2) Any drainage work constructed before the 5th day of May, 1894, under *The Ontario Drainage Act* of 1887, or any Act in amendment thereof or under a by-law passed by a county council, which continues from the municipality in which the drainage work commences into or through one or more other municipalities, shall be maintained and kept in repair by the municipality in which the drainage work commences, from the point of commencement to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, or to the outlet on such road allowance as the case may be, and by every other municipality through or into which the drainage work is continued, from the point at which the same crosses the boundary line between any road allowance and lands in the municipality and enters upon such lands to an outlet in the municipality, or on a road allowance adjoining the municipality, or to the point at which the drainage work crosses the boundary line between any road allowance and lands in an adjoining municipality, as the case may be, at the expense of the lands and roads in any way assessed for the construction thereof, and in the proportion determined by the assessors or engineer or surveyor in their assessment roll or report as the case may be, for construction, or in appeal therefrom by the award of arbitrators or order of the Referee, unless and until in the case of each municipality such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the drainage work or in appeal therefrom by the order of the Referee.

Where work deemed to commence.

(3) A drainage work which commences on a road allowance between two municipalities shall, for the purposes of this section, be deemed to commence in the municipality next adjoining that half of the road allowance upon which the drainage work is begun. 10 Edw. VII. c. 90, s. 73.

74.—(1) The council of any municipality undertaking the repair of any drainage work under sections 71, 72 or 73, shall, before commencing the repairs serve upon the head of any municipality liable to contribute any portion of the cost of such repairs under the provisions of this Act, a certified copy of the by-law for undertaking the repairs, as the same is provisionally adopted, which by-law shall recite the description, extent and estimated cost of the work to be done and the amount to be contributed therefor by each municipality affected by the drainage work; and the council of any municipality so served may, within thirty days thereafter, appeal from such by-law to the Referee on the ground that the amount assessed against the lands and roads in such municipality is excessive or that the work provided for in the by-law is unnecessary, or that such drainage work has never been completed through the default or neglect of the municipality whose duty it was to do the work, in the manner provided in the case of the construction of the drainage work; and the Referee on such appeal may alter, amend or confirm such by-law, or may direct that the same shall not be passed as to him may seem just, and his order upon such appeal shall be subject to appeal to a Divisional Court, and the decision of that Court shall be final and conclusive as to all corporations affected thereby.

Service of
by-law on
municipality
liable for
contribution.

Appeal.

(2) The council of every municipality served with the provisional by-law shall, within four months after such service, pass a by-law to raise, and shall, within that period raise and pay over to the treasurer of the initiating municipality the amount assessed against lands and roads in the municipality, as stated in the provisional by-law or as settled on appeal therefrom by the order of the Referee. 10 Edw. VII. c. 90, s. 74.

Council served
to furnish
amount
required.

VARYING ASSESSMENT.

75.—(1) The council of any municipality liable for the maintenance of any drainage work may from time to time as the same requires repairs vary the proportions of assessment for maintenance, on the report and assessment of an engineer appointed by the council to examine and report on the condition of the work, or the portion thereof, as the case may be, which it is the duty of the municipality as aforesaid to maintain and on the liability to contribute of lands and roads which were not assessed for construction, and have become liable to assessment under this Act; and the engineer or surveyor may in his report upon such repairs assess lands and roads in the municipality undertaking the repairs and in any other municipality from which water flows through the drainage work in to the municipality undertaking the repairs; but he shall not, except after leave given by the Referee on an application of which notice has been given to the head of every municipality affected, assess for such repairs any lands or roads lying in any municipality into which water flows through the drainage work from the municipality undertaking the repairs.

Varying as-
sessment for
maintenance.

Proceedings
on report
of engineer.

(2) The proceedings upon such report and assessment shall be the same, as nearly as may be, as upon the report for the construction of the drainage work.

Appeal from
report of
engineer.

(3) Any council served with a copy of such report and assessment may appeal to the Referee from the finding of the engineer as to the portion of the cost of the work for which the municipality is liable, and the proceedings on such appeal shall be the same as in other cases of appeals to the Referee under this Act.

Appeal to
Court of
Revision.

(4) Any owner of lands and any ratepayer in the municipality as to roads assessed for such repairs may appeal from such assessment in the manner provided in the case of the construction of the drainage work, and the council of every municipality affected by the report of the engineer or surveyor made under this section shall appoint a court of revision for the trial of any appeals in the manner hereinbefore provided.

Basis of
future
assessments.

(5) Such assessment as so varied shall thereafter, unless or until it is further varied, form the basis of any assessment for maintenance of the drainage work affected thereby. 10 Edw. VII. c. 90, s. 75.

REPAIRING WITHOUT REPORT.

Deepening,
widening or
extending
without
report of
engineer.

76. The council of any municipality, whose duty it is to maintain any drainage work for which only lands and roads within or under the jurisdiction of such municipality are assessed, may, after the completion of the drainage work, without the report of an engineer or surveyor upon a *pro rata* assessment on the lands and roads as last assessed for the construction or repair of the drainage work, make improvements thereto by deepening, widening or extending the same to an outlet, provided the cost of such deepening, widening and extending is not above one-fifth of the cost of the construction, and does not exceed in any case \$800; and in every case where the cost of the improvements exceeds such proportion or amount, the proceedings to be taken shall be as provided in section 77. 10 Edw. VII. c. 90, s. 76.

REPAIRING UPON REPORT.

Repairing
upon exami-
nation and
report by
engineer.

77.—(1) Wherever, for the better maintenance of any drainage work constructed under the provisions of this Act or any Act respecting drainage by local assessment, or to prevent damage to any lands or roads it is deemed expedient to change the course of such drainage work, or make a new outlet for the whole or any part of the work, or otherwise improve, extend, or alter the work, or to cover the whole or any part of it, the council of the municipality or of any of the municipalities whose duty it is to maintain such drainage work, may, without the petition required by section 3, but on the report of an engineer or surveyor appointed

by them to examine and report on the same, undertake and complete the change of course, new outlet, improvement, extension, alteration or covering specified in the report, and the engineer or surveyor shall for such change of course, new outlet, improvement, extension, alteration or covering, have all the powers to assess and charge lands and roads in any way liable to assessment under this Act for the expense thereof in the same manner, and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under the provisions of this Act.

(2) The provisions of this section shall apply to the better maintenance of a natural stream, creek or watercourse which has been artificially improved by local assessment or otherwise, and to any drainage work constructed under the provisions of *The Ontario Drainage Act*, being chapter 36 of the Revised Statutes of Ontario, 1887, in the same manner, to the same extent, and by the same proceedings as are hereby made applicable to the better maintenance of a drainage work wholly artificial. 10 Edw. VII. c. 90, s. 77 (1-2). ^{Application of section.}

(3) Such drainage work shall thereafter be maintained as hereinbefore by this Act provided, but on the basis of the new assessment, unless or until such assessment is varied or otherwise determined as provided by section 75. 10 Edw. VII. c. 90, s. 77 (3); 2 Geo. V. c. 17, s. 36 (1). ^{Future maintenance.}

(4) Nothing contained in this section or in section 76 shall be construed as requiring a municipal council to procure the report of an engineer before undertaking any work in pursuance of sections 71, 72 or 73. 2 Geo. V. c. 17, s. 36 (2). ^{Report of engineer as to work under ss. 71, 72 or 73 not essential.}

REPAIRING WORK CONSTRUCTED OUT OF GENERAL FUNDS.

78.—(1) Any drainage work heretofore or hereafter constructed out of the general funds of any municipality, or out of the general funds of two or more municipalities, or when constructed by statute labour, or partly by statute labour and partly by general funds or out of funds raised by a local assessment under a by-law which is afterwards found to be illegal or which does not provide for repairs, need not be repaired out of such general funds, but the council of any of the contributing municipalities may, without the petition required by section 3, on the report of an engineer or surveyor, pass a by-law for maintaining the same at the expense of the lands and roads assessable for such work, and may assess the lands and roads in any way liable to assessment under this Act, for the expense thereof in the same manner, and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under the provisions of this Act. ^{Assessment for repair of work constructed out of general funds.}

(2) Any such drainage work may in like manner and under the like procedure as provided in the case of repairs under this section be deepened, widened, extended, or provided with ^{Deepening, etc., drain constructed out of general funds.}

a new outlet for the whole or any part thereof. 10 Edw. VII. c. 90, s. 78.

Estimating and assessing damage for overflow where cost of work exceeds damage.

79.—(1) Where an engineer or surveyor is directed by the council to make an examination and report under section 77 or subsection 2 of section 78, and upon such examination he is of opinion that the cost of changing the course of, making a new outlet for or otherwise improving, extending or altering the work so that it will be of sufficient capacity to carry off the water to a sufficient outlet will exceed the amount of injury caused or likely to be caused to low-lying lands along the course of or below the termination of the work, then in lieu of such change of course, new outlet, improvement, extension or alteration, or any part of such work, he may in his estimate of the cost of the work include a sufficient sum to compensate the owners of such low-lying lands for any injuries sustained from the drainage work, and he shall in his report determine the amount to be paid to the respective owners of low-lying lands in respect of such injuries.

Appeal of owner to Referee.

(2) Any owner of such low-lying lands, if dissatisfied with the provision for compensation made by the report of the engineer, may appeal therefrom to the Referee in manner provided by subsection 7 of section 9, and the Referee may hear and determine such appeal in manner as provided by that subsection. 10 Edw. VII. c. 90, s. 79.

MANDAMUS TO COMPEL REPAIR.

Power to compel repairs by mandamus.

80.—(1) Upon reasonable notice in writing from any person or municipality interested in a drainage work who or whose property is injuriously affected by the condition of the drainage work, the municipality whose duty it is to maintain and keep in repair the drainage work, shall be compellable by mandamus issued by the Referee or other court of competent jurisdiction to exercise the powers and to perform the duties conferred or imposed upon it by sections 71 to 78, or such of the said powers as to the Referee or court may seem proper, and shall also be liable in pecuniary damages to the person or municipality who or whose property is so injuriously affected.

(a) Any party to such proceedings may by leave of the Referee or of a Divisional Court or a judge thereof, appeal to a Divisional Court from the decision or judgment of the Referee.

(b) A mandamus against the municipality shall not be moved for until after the lapse of thirty days from the date of the service of the notice. 10 Edw. VII. c. 90, s. 80.

Liability of municipality for damages caused by non-repair.

(2) Notwithstanding anything contained in subsection 1, the municipality whose duty it is to maintain and keep in repair a drainage work, shall not become liable in pecuniary

damages to any owner of land whose property is injuriously affected by reason of the non-repair of such drainage work, unless and until after service by or on behalf of such owner of notice in writing upon the reeve or clerk of such municipality, describing with reasonable certainty the alleged lack of repair of such drainage work. 1 Geo. V. c. 60, s. 1.

REPAIRS BY OWNERS.

81.—(1) It shall be lawful for the council of any municipality to pass a by-law or by-laws providing that it shall be the duty of the owner of every lot or part of a lot, assessed for benefit, to clean out the drain and keep the same free from obstructions which may hinder or impede the free flow of the water, and to remove therefrom all weeds and brushwood and to keep the banks of the drain in order, to the extent and in manner or proportion and for the distance determined by the engineer in his report, and, in case any such owner makes default in so doing for thirty days after notice in writing from the council of the municipality, the work may be done by the council or by any officer appointed by it for the purposes of the drain, and the cost thereof, after notice of the same to the person so making default and liable therefor, shall be placed on the collector's roll against the lands of such owner and shall be chargeable against such lands and be collected in the same manner as other municipal or drainage assessments.

Duty of owners as to cleaning out and maintaining banks.

(2) The engineer or surveyor shall in his report state the portion of the drain already or thereafter to be constructed which shall be by each owner assessed for benefit, cleaned out and kept clear and free from obstructions and in good order as prescribed by this section. 10 Edw. VII. c. 90, s. 81.

Engineer to apportion work of cleaning out drain among owners.

82.—(1) When any drainage work, heretofore or hereafter constructed, becomes obstructed by dams, low bridges, fences, washing out of private drains, or other obstructions, for which the land adjoining the drainage work or the owner or person in possession thereof is responsible, so that the free flow of the water is impeded thereby, the persons owning or occupying the land shall, upon reasonable notice in writing given by the council or by an inspector appointed by the council for the inspection and care of drains, remove such obstructions in any manner caused as aforesaid and, if not so removed within the time specified in the notice, the council or the inspector shall forthwith cause the same to be removed.

Persons responsible for obstruction to remove same on notice.

(2) The council may, by by-law, appoint an inspector for the purposes mentioned in the preceding subsection, and shall in the by-law regulate the fees or other remuneration to be received by him.

Appointment of inspector.

Collection
of cost of
removal by
municipality.

(3) If the cost of removing such obstruction is not paid by the owner or occupant of the lands liable, to the municipality forthwith after the completion of the work, the council may pay the same, and the clerk of the municipality shall place such amount upon the collector's roll against the lands liable, with ten per cent. added thereto, and the same shall be collected like other taxes, subject, however, to an appeal to the judge by the owner or occupant, in respect of the cost of the work. 10 Edw. VII. c. 90, s. 82.

Minor
repairs.

83. The council of any municipality may by by-law direct that the inspector appointed under section 82 shall from time to time remove from any drainage work all weeds and brushwood, fallen timber or other minor obstructions for which the owner of the lands adjacent to the drainage work may not be responsible, and the cost of such work shall be chargeable from time to time against the lands assessed for the maintenance of the drainage work, and in the proportion fixed by the by-law authorizing the drainage work, but it shall not be necessary to assess and levy the amount so charged more than once in every five years after the passing of such first mentioned by-law, unless in the meantime the total expense incurred shall exceed the sum of \$100. 10 Edw. VII. c. 90, s. 83.

CUTTING EMBANKMENTS, BANKS, ETC.

Penalty for
injury to embankments,
etc.

84. Any person who obstructs, fills up or injures any drainage work, or destroys, cuts, or injures any embankment of any pumping works, or of any other drainage work, in addition to his liability in civil damages therefor, upon the complaint of the council of the municipality or of any person affected by such obstructing, filling up, destroying, cutting, or injuring, upon summary conviction thereof, shall incur a penalty of not less than \$5 nor more than \$100 and shall also be liable to imprisonment for any term not exceeding six months, and in default of payment of such penalty shall further be liable to imprisonment for any term not exceeding three months. 10 Edw. VII. c. 90, s. 84.

REMOVING ARTIFICIAL OBSTRUCTIONS.

Removal of
dams, etc.,
on construction
of work.

85. Wherever, in the construction of any drainage work any dam or other artificial obstruction exists in the course of or below the work, and is situate wholly within the municipality doing the work, the council shall have power, with the consent of the owner thereof and of the council or councils of the other municipalities liable to assessment for the cost of the work, and upon payment of such purchase money as may be mutually agreed upon, or in default of such consent or agreement be determined by the Referee, to remove the same wholly or in part; and any amount so paid or payable as purchase money shall be deemed part of the cost of construction and be provided for in the assessment by the engineer or surveyor. 10 Edw. VII. c. 90, s. 85.

OPERATING PUMPING WORKS.

86.—(1) For the better maintenance of drainage work by embanking, pumping or other mechanical operations, the council of the municipality initiating the work may pass by-laws appointing a commissioner or commissioners who shall have power to enter into all necessary and proper contracts for the purchase of fuel, erection or repairs of buildings, and purchase and repairs of machinery, and to do all other things necessary for successfully operating such drainage work, as may be set forth in the by-law appointing them; and the council may pass by-laws for defraying the annual cost of maintaining and operating the work by assessment upon the lands and roads in any way liable to assessment under the provisions of this Act.

Appointment of commissioners for pumping works, etc.

(2) Upon the petition of two-thirds of the resident owners in the drainage territory, the council of the municipality may pass by-laws empowering the commissioner or commissioners appointed under this section to use all buildings, machinery and equipments belonging to and in connection with any drainage pumping works, and to operate the same for such purposes and upon such terms as may be set forth in such by-laws but so that the profits or benefits of such user shall accrue to the owners. 10 Edw. VII. c. 90, s. 86.

Powers which may be granted to them.

87. Upon the petition of two-thirds of the persons interested in any drainage work constructed by embanking, pumping or other mechanical operations, and not constructed by the municipality, the council of the municipality in which the work is situate may assume the work and maintain and operate the same, in the same manner and to the same extent as if such drainage work had been constructed under the provisions of this Act, but at the cost of the lands and roads liable to be assessed for the work. 10 Edw. VII. c. 90, s. 87.

Assuming pumping works, etc., constructed by private persons.

DEBENTURES FOR MAINTENANCE.

88.—(1) Where the maintenance of any drainage work is so expensive that the municipal council liable therefor deems it inexpedient to levy the cost thereof in one year, the council may pass a by-law to borrow, upon the debentures of the municipality, the amount necessary for the work, or its proportion thereof, and shall assess, and levy upon the lands and roads liable therefor a special rate sufficient for the payment of the debentures.

Powers to issue debentures for the cost of maintenance.

(2) Where such debentures are issued for work done under the provisions of section 77, such debentures shall be payable within twenty years from the date thereof, and where such debentures are issued for the cost of repairs undertaken under any other provision such debentures shall be payable within seven years from the date thereof.

Time at which debentures to be payable.

Application of
Rev. Stat. c. 43.

(3) The provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under any by-laws passed under this section, which has before its final passing been published or of which the ratepayers have been notified in manner provided by this Act or which has, after its passing been promulgated as required by section 281 of *The Municipal Act*. 10 Edw. VII. c. 90, s. 88.

Rev. Stat.
c. 192.

PAYING BACK ADVANCES.

Repayment
of advances
from general
funds on
receipt of
assessments.

89. Any money which has been or may hereafter be advanced by the council of any municipality out of its general funds for the purposes of any drainage work in anticipation of the levies and collections therefor, shall be repaid into the general funds of the municipality as soon as the money first derived from the assessment is collected. 10 Edw. VII. c. 90, s. 89.

MUNICIPALITY ASSUMING AWARD DRAINS.

Power to
bring drains
constructed
under Rev.
Stat. c. 260,
within this
Act.

90. Upon a petition presented to the council of any municipality as provided for in section 3, having within the area described therein any drain constructed under *The Ditches and Watercourses Act* or any other Act providing for assessment in work, signed by a majority of the owners interested in such ditch or drain, the council may assume the same and proceed thereon in the same manner and to the same extent as for the construction of any drainage work under the provisions of this Act, and the passing of the by-law under the provisions of this Act shall in every such case be a bar to any further proceedings upon the award or under the provisions of the Act upon which such award is based. 10 Edw. VII. c. 90, s. 90.

COST OF REFERENCE AND INCIDENTAL EXPENSES.

Certain
expenses to
be deemed
part of the
cost of
the work.

91. Except where otherwise provided by this Act, the cost of any reference had in connection with the construction or maintenance of any drainage work, the cost of the publication or service of by-laws, and all other expenses incidental to the construction or maintenance of the work and the passing of the by-laws, shall be deemed part of the cost of such work, and shall be included in the amount to be raised by local rate on all lands and roads liable therefor. 10 Edw. VII. c. 90, s. 91.

LANDLORD AND TENANT.

Tenant's
covenant to
pay taxes—
when to
include
drainage
assessments.

92. Any agreement on the part of any tenant to pay the rates or taxes in respect of the demised lands, shall not include the charges and assessments for any drainage work unless such agreement in express terms so provides; but in cases of contract to purchase or of leases giving the lessee an option to purchase, the charges and assessments for drainage

work in connection with which proceedings were commenced under this Act, after the date of the contract or lease, and which have been already paid by the owner, shall be added to the price and shall be paid by the purchaser or the lessee in case he exercises his option to purchase; but the amount still unpaid on the cost of the work or repair, and charged against the lands shall be borne by the purchaser unless otherwise provided by the conveyance or agreement. 10 Edw. VII. c. 90, s. 92.

DRAINAGE REFEREES.

93.—(1) The Lieutenant-Governor in Council from time to time may appoint two referees for the purpose of the drainage laws; that is to say, *The Ontario Drainage Act*, the provisions of this Act, and other Acts, and parts of Acts on the same subject. Referees, appointment of. Rev. Stat. 1887 c. 36.

(2) Such referees shall be deemed to be and shall be officers of the Supreme Court. To be officers of Supreme Court.

(3) They shall be barristers of at least ten years' standing at the Bar of Ontario. Qualification.

(4) They shall hold office by the same tenure as official referees under *The Judicature Act*. Tenure of office. Rev. Stat. c. 56.

(5) They shall not practise as solicitors or barristers in any matter arising under this Act, nor act as legal agents or advisers in any such matter. Not to practise.

(6) They shall each be paid a salary of such amount as may be appropriated by this Legislature for the purpose, not exceeding \$3,500 a year, to be paid monthly, together with their reasonable travelling expenses. Salary.

(7) One of such referees shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in the Counties of Stormont, Dundas and Glengarry, Prescott and Russell, Leeds and Grenville, Frontenac, Lennox and Addington, Prince Edward, Hastings, Northumberland and Durham, Victoria, Haliburton, Peterborough, Renfrew, Lanark, Carleton, and the other Referee shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in all the other counties and districts in Ontario. Jurisdiction.

(8) Where either of the referees is absent or owing to illness or other cause is unable to act, or where the office of either referee is vacant, the remaining referee shall act and shall have jurisdiction as referee over the whole province until the vacancy is filled or the other referee is able to act. 10 Edw. VII. c. 90, s. 93. Absence or illness.

94.—(1) The Referee shall have the powers of an Official Referee under *The Judicature Act* and *The Arbitration Act* and of arbitrators under any former enactments relating to drainage works. Referee to have powers of an official referee under Rev. Stat. cc. 56, 65.

Powers as to compelling production, amending notices, etc.

(2) In respect to all applications and proceedings before him or which may come before him under the provisions of this Act, or any former Act relating to drainage works, he shall have the powers of a Judge of the Supreme Court including the production of books and papers, the amendment of notices of appeal and of notices of claims for compensation or damages, and of all other notices and proceedings; he may correct errors, or supply omissions, fix the time and place of hearing, appoint the time for his inspection, summon to his aid engineers, surveyors or other experts, and regulate and direct all matters incident to the hearing, trial and decision of the matters before him so as to do complete justice between the parties; he may also grant an injunction or a mandamus in any matter before him under this Act.

Granting a mandamus or injunction.

Power to determine validity of proceedings and amend report.

(3) The Referee shall have power, subject to appeal as hereinafter provided, to determine the validity of all petitions, resolutions, reports, provisional or other by-laws, whether objections thereto have been stated as grounds of appeal to him or not, and to amend and correct any provisional by-law in question; and, with the engineer's consent and upon evidence given, to amend the report in such manner as may be deemed just, and upon such terms as may be deemed proper for the protection of all parties interested, and, if necessary by reason of such amendments, to change the gross amount of any assessment made against any municipality, but in no case shall he assume the duties conferred by this Act upon the court of revision or a county judge. 10 Edw. VII. c. 90, s. 94.

Interlocutory applications, no appeal from referee, thereon.

95. All interlocutory applications for any of the purposes mentioned in subsection 2 of the last preceding section shall be made to the Referee and his order thereon shall be final and conclusive. 10 Edw. VII. c. 90, s. 95.

APPEALS FROM ASSESSMENT.

Notice of appeal from assessment to be filed.

96. A copy of the notice of appeal by any municipality from the report, plans, specifications, assessments, and estimates of an engineer or surveyor or from a provisionally adopted by-law, with an affidavit of service thereof shall, within the time limited by this Act for the service of the same, be filed in the office of the clerk of the county court of the county or union of counties in which the drainage work commenced. 10 Edw. VII. c. 90, s. 96.

Amendment of by-law to carry out decision of referee.

97. The by-law of the initiating municipality and of any other municipalities interested shall be amended so as to incorporate and carry into effect the decision or report of the Referee or such decision or report as varied on appeal, as the case may be. 10 Edw. VII. c. 90, s. 97.

98.—(1) Subject to the provisions of section 99, applications to set aside, declare void or otherwise directly or indirectly to attack the validity of any petition, report of an engineer, resolution of a council, by-law provisionally adopted or finally passed relating to a drainage work as hereinbefore defined, as well as all proceedings to determine claims and disputes arising between municipalities or between a company and a municipality or between individuals and a municipality, company or individual in respect of anything done or required to be done under the provisions of this Act or consequent thereon, or by reason of negligence, or for a mandamus or injunction, shall be made to and shall be heard and tried by the Referee, who shall hear and determine the same and give his decision and his reasons therefor.

Application to set aside drainage by-law, report, petition or resolution to be made to referee.

(2) Proceedings for the determination of claims and disputes and for the recovery of damages by reason of negligence, or by way of compensation or otherwise, or for a mandamus or an injunction, under this section, shall be instituted by serving ten clear days' notice setting forth the grounds of the claim for damages or compensation or a mandamus or an injunction as the case may be upon all persons concerned.

Proceedings to be instituted by notice.

(3) A copy of the notice with an affidavit of service thereof shall be filed with the clerk of the county court of the county in which the land is situate and the notice shall be filed and served within two years from the time the cause of complaint arose.

Notice to be filed in County Court.

(4) All affidavits intended to be used in support of a motion shall be filed with the clerk of the county court not less than five days before the return day of the motion.

Affidavits to be filed 10 days before motion.

(5) Subject to the provisions of section 99, no application or proceeding within the meaning of this section shall be made or instituted otherwise than as herein provided.

Application not to be made otherwise.

(6) Where the amount awarded upon a claim for damages arising out of a drainage work does not exceed \$60, the costs allowed to the plaintiff shall be on the division court scale so far as the same is applicable. 10 Edw. VII. c. 90, s. 98.

Costs on claims not exceeding \$60 on Division Court scale.

(7) Where the amount awarded is upon a claim for damages by reason of the non-repair of a drainage work, the costs allowed shall be on the division court scale. 1 Geo. V. c. 60, s. 2.

Costs in award of damages for non-repair.

99.—(1) Where an action is brought or is pending and the Court in which the same is brought or is pending or a Judge thereof is of opinion that the relief sought therein is properly the subject of a proceeding under this Act or that the same may be more conveniently tried before and disposed of by the Referee, the court or judge may, on the application of either party, at any stage of the action make an order transferring it to the Referee on such terms as may be deemed just, and the Referee shall thereafter give directions for the con-

Actions may be transferred to referee.

tinuance of the action before him, which shall be as far as practicable in conformity with the provisions of this Act as to proceedings by a notice of motion, and subject to the order, all costs shall be in his discretion.

Application of section.

(2) This section shall apply only where the action is brought within the period limited by this Act for taking proceedings on notice. 10 Edw. VII. c. 90, s. 99.

Decision of Court of Appeal to be final.

100. The decision of the referee in all applications and proceedings under this Act, not otherwise provided for as being final and conclusive between the parties, shall be subject to appeal to a Divisional Court and its decision thereon shall be final, conclusive and binding upon all parties to the application or other proceeding. 10 Edw. VII. c. 90, s. 100.

Assessing damages and costs payable by municipalities.

101.—(1) Save as provided by subsections 2, 3 and 4 of this section all damages and costs payable by a municipality and arising from proceedings taken under this Act shall be levied *pro rata* upon the lands and roads in any way assessed for the drainage work according to the assessment thereof for construction or maintenance, and may be assessed, levied and collected in the same manner as rates assessed, levied and collected for maintenance under this Act.

In what cases damages and costs may be ordered to be paid by municipality.

(2) Where such damages and costs become payable owing to any improper action, neglect, default or omission on the part of the council of any municipality or of any of its officers in the construction of the drainage work or in carrying out the provisions of this Act, the Referee or court may direct that the whole or any part of such damages and costs shall be borne by such municipality and be payable out of the general funds thereof.

In cases of amicable settlement.

(3) Where in any such proceedings by or against a municipality an amicable settlement is arrived at and carried out by the advice of counsel, the damages and costs payable under the terms of such settlement by any municipality shall be borne and paid as directed by the Referee on application to him on behalf of the council of the municipality or any owner of lands assessed for the construction or maintenance of the drainage work, and in making such direction the Referee shall have regard to the provisions of the next preceding subsection.

Where extension, etc., of drainage work necessary.

(4) Where in the opinion of the Referee damages and costs have become payable by reason of the insufficiency of the capacity or outlet of a drainage work and it is necessary in order to prevent a continuance of such damage to improve, extend or alter the said drainage work, the Referee may by his report permit the council of the municipality to add such damages and costs to the engineer's estimate of the cost of any such improvement, extension or alteration, and in such case the engineer shall include the amount of such damages and costs in his estimate of such cost and the same shall thereafter

be assessed, levied and collected as if it were part of the actual cost of the drainage work. 10 Edw. VII. c. 90, s. 101.

CROSSING RAILWAY LANDS.

102.—(1) Whenever by the report of an engineer or surveyor, drainage works are proposed to be carried upon, along, under or across the lands of any railway company, the council initiating the scheme shall serve the railway company with a copy of the report, plans, specifications, assessments or other estimates of the engineer or surveyor of the proposed works, and the company so served shall at any time within three weeks after such service have a right to appeal to the referee upon any question arising in connection with that portion of the drain or drainage work upon, along, under or across its railway or lands.

(2) Upon any appeal under the preceding subsection, the referee shall hear and adjudicate upon all questions raised in the notice of appeal, may amend the report appealed from and make such order in the premises as may be deemed just.

(3) The costs of such appeal to the referee shall be payable by the railway company, appellants, in any event.

PROCEEDING WITH REFERENCE.

103.—(1) The Referee at any time after an appeal or reference is made to him as hereinbefore provided, may give directions for the filing or serving of objections and defences to such appeal or reference and for the production of documents and otherwise, and may give an appointment to either or any party to the appeal or reference, to proceed therewith at such place and time and in such manner as to him may seem proper, but unless the parties otherwise consent the hearing shall be in the county or one of the counties in which the drainage work or proposed drainage work is situate or in which lands are assessed.

(2) The clerk of the county court shall be the clerk of the court of the referee, and shall take charge of and file all the exhibits, and shall be entitled to the same fees for filings and for his services and for certified copies of decisions or reports as for similar services in the county court.

(3) The clerk shall be entitled to such fees as the referee may direct, not exceeding \$4 per day for his attendance at the court and such fees shall be included in the costs and shall be borne and paid as the Referee may direct.

(4) The fees payable to the clerk shall be paid in money and not in stamps.

Referee's
clerk.

(5) In the absence of the clerk of the county court the Referee may appoint the Referee's clerk or some other person to act as clerk for the purpose of the trial and for taking charge of and filing all exhibits, and the person so appointed shall while so acting have the same power and be entitled to the same fees as the clerk of the county court would have and be entitled to if personally present.

Subpœnas.

(6) Subpœnas for the attendance of witnesses at the hearing, tested in the name of the Referee, may be issued by the clerk of the county court of the county in which the case is to be heard. 10 Edw. VII. c. 90, s. 102.

Shorthand
writer.

(7) Two or more shorthand writers may from time to time be appointed by the Lieutenant-Governor in Council to report hearings or trials before the Referee, and every such officer shall be deemed to be an officer of the Supreme Court, and shall be paid in the same manner as shorthand writers in the Supreme Court are paid and the several sections of *The Judicature Act* respecting shorthand writers shall apply to any shorthand writer appointed under this Act. 10 Edw. VII. c. 90, s. 104.

Rev. Stat. c. 36.

When referee
proceeds on
view or
special know-
ledge.

104. When the Referee proceeds partly on view or on any special knowledge or skill possessed by himself, he shall put in writing a statement of the same sufficiently full to allow a Divisional Court to form a judgment of the weight which should be given thereto; and he shall state as part of his reasons the effect by him given to such statement. 10 Edw. VII. c. 90, s. 103.

Clerk of
Court to for-
ward notice
filing report,
etc., to
parties.

105. The decision or report of the Referee with the evidence, exhibits, and statement, if any, of inspection or of technical knowledge and the reason for his decision shall be filed in the office of the clerk of the county court, and notice of the filing shall forthwith be given by the clerk, by post or otherwise, to the solicitors of the parties appearing by solicitor, and to other parties not represented by a solicitor, and also to the clerk of the municipality or other corporation. 10 Edw. VII. c. 90, s. 105.

Report to be
sent to clerk
of each muni-
cipality inter-
ested.

106. A copy of the decision or report certified by the Referee or clerk aforesaid, shall be sent or delivered to the clerk of every municipality interested in the drainage work in question upon receipt of the sum chargeable therefor, as hereinbefore provided, and shall be kept on file as a public document of the municipality. 10 Edw. VII. c. 90, s. 106.

Decision to be
in form of
order for
judgment.

107. The decision or report of the Referee shall be in the form of an order for judgment and may be delivered as decisions by the judges of the Supreme Court are, and need not be in the form of a report; and unless appealed from to a Divisional Court, as herein provided, judgment may be entered in the proper office without any further or other application or order. 10 Edw. VII. c. 90, s. 107.

108. When an appointment is given by the Referee for the hearing of any matter under this Act in any city, town or place wherein a court house is situated, he shall have in all respects the same authority as a Judge of the Supreme Court in regard to the use of the court house, or other place or apartments set apart in the county for the administration of justice. 10 Edw. VII. c. 90, s. 108.

109. Sheriffs, deputy-sheriffs, constables and other peace officers shall aid, assist and obey the Referee in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificates of the said Referee, be paid by the county or counties interested, like fees as for similar services at the sittings of the High Court Division for the trial of causes. 10 Edw. VII. c. 90, s. 109.

110. Except as in this Act otherwise provided and subject to the provisions thereof, the rules and practice for the time being of the Supreme Court shall be followed so far as the same are applicable. 10 Edw. VII. c. 90, s. 110.

111. In cases brought before the Referee in pursuance of the powers conferred by this Act, or by any other Act, the evidence taken before him need not be filed, and need only be written out at length by the shorthand writer, if required by the Referee or by any parties to the reference; and if required by any of the parties to the reference, copies shall be furnished upon such terms as may be fixed by the Lieutenant-Governor in Council. 10 Edw. VII. c. 90, s. 111.

112. Costs shall be taxed by the Referee; or he may direct the taxation thereof by the clerk of the county court with whom the papers are filed, or by any taxing officer of the Supreme Court. 10 Edw. VII. c. 90, s. 112.

113. Fees shall be paid in stamps or otherwise in the same manner as in the case of other proceedings in such courts respectively, until other provision is made in that behalf by competent authority. 10 Edw. VII. c. 90, s. 113.

114. To provide a fund for or towards the payment of the Referee's salary and other expenses, there shall be further payable a sum which shall be determined by the Referee and mentioned in his decision or report or in a subsequent report; the said sum not to exceed the rate of \$4 a day for every full day the trial occupies, and shall be paid in stamps by one or the other of the parties, or distributed between or among the parties as the Referee directs. 10 Edw. VII. c. 90, s. 114.

115. The decision or report of the Referee shall not be given until stamped with the necessary stamps. 10 Edw. VII. c. 90, s. 115.

Appealing to
Court of
Appeal, time
for.

116.—(1) The decision or report of the Referee, on any appeal or reference under this Act, or in any action or proceeding transferred or referred to him under this Act shall be binding and conclusive upon all parties thereto, unless appealed from to a Divisional Court within one month after the filing thereof, or within such further time as the Referee or a Divisional Court or a judge thereof may allow, save as otherwise provided by this Act in any case where it is declared that the decision of the Referee shall be final.

Procedure.

(2) The decision or report may be appealed against to a Divisional Court in the same manner as from a decision of a judge of the Supreme Court sitting in court. 10 Edw. VII. c. 90, s. 116.

RULES AND TARIFF OF COSTS.

Judges of
Supreme
Court may
make rules.

117. The Judges of the Supreme Court shall have the same authority to make general rules with respect to proceedings before the Referee and appeals from him as they have with respect to proceedings under *The Judicature Act*; and section 110 of that Act shall apply thereto. 10 Edw. VII. c. 90, s. 117.

Rev. Stat. c. 56.

Referee may
make rules.

118.—(1) Subject to any such general rules the Referee shall have power, with the approval of the Lieutenant-Governor in Council, to frame rules regulating the practice and procedure to be followed in all proceedings before him under this Act, and also to frame tariffs of fees in cases not otherwise provided for.

Publication.

(2) Such rules and tariffs, whether made by the judges or the Referee, shall be published in the *Ontario Gazette* and shall thereupon have the force of law; and the same shall be laid before the Assembly at its next Session after promulgation thereof. 10 Edw. VII. c. 90, s. 118.

Tariff of
county court
adopted until
rules made.

119. Until other provisions are made under the last two preceding sections the tariff of the county court shall be the tariff of costs and of fees and disbursements for solicitors and officers under this Act and the Referee shall have the power to fix counsel fees. 10 Edw. VII. c. 90, s. 119.

FORM 1.

FORM OF PETITION FOR DRAINAGE WORK.

(Section 4).

The petition of the majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll of the township of _____ in the county of _____ to be the owners of the lands to be benefited within said township, and hereinafter described, sheweth as follows:

Your petitioners request that the area of land within the said township and being described as follows: that is to say, lots numbered 1 to 10 inclusive in the first concession; lots lettered A to H inclusive in the second concession; north-west halves of lots numbered 4 to 12 inclusive in the third concession; the side-road between lots numbered 7 and 8 in the first concession, and the road allowance between concessions 1 and 2 and between 2 and 3 (*as the case may be, or describing the area by metes and bounds*), may be drained by means of:—

1. A drain or drains.
2. Deepening, straightening, widening, clearing of obstructions or otherwise improving the stream, creek or watercourse, known as (*name or other general designation*).
3. Lowering the water of lake _____ or the pond known as (*name or other general designation*), (*or by any or all of said means.*)

And your petitioners will ever pray:—

10 Edw. VII. c. 90, Schedule A.

FORM 2.

FORM OF BY-LAW.

(Section 23.)

A by-law to provide for drainage work in the _____ of _____ in the county of _____ and for borrowing on the credit of the municipality, the sum of _____ for completing the same (*or the sum of _____ the proportion to be contributed by said municipality for completing the same*).

Provisionally adopted the _____ day of _____ A.D. 19 _____

Whereas the majority in number of the resident and non-resident owners (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll, of the property hereinafter set forth to be benefited by drainage work (*as the case may be*) have petitioned the council of the said _____ of _____ praying that (*here set out the purport of the petition, describing generally the lands and roads to be benefited*).

And whereas, thereupon the said council has procured an examination, to be made by _____, being a person competent for such

purpose, of the said area proposed to be drained and the means suggested for the drainage thereof, and of other lands and roads liable to assessment under *The Municipal Drainage Act*, and has also procured plans, specifications and estimates of the drainage work to be made by the said _____ and an assessment to be made by him of the lands and roads to be benefited by such drainage work, and of other lands and roads liable for contribution thereto, stating as nearly as he can the proportion of benefit, outlet liability and injuring liability, which in his opinion will be derived or incurred in consequence of such drainage work by every road and lot, or portion of lot, the said assessment so made being the assessment hereinafter by this by-law enacted to be assessed and levied upon the roads and lots, or parts of lots hereinafter in that behalf specially set forth and described; and the report of the said _____ in respect thereof, and of the said drainage work being as follows: (*here set out the report of the engineer or surveyor employed.*)

And whereas the said council are of opinion that the drainage of the area described is desirable:—

Therefore the said municipal council of the said _____ of _____, pursuant to the provisions of *The Municipal Drainage Act*, enacts as follows:—

1st. The said report, plans, specifications, assessments and estimates are hereby adopted, and the drainage work as therein indicated and set forth shall be made and constructed in accordance therewith.

2nd. The reeve (*or mayor*) of the said _____ may borrow on the credit of the corporation of the said _____ of _____ the sum of _____ dollars, being the funds necessary for the work *not otherwise provided for* (*or being said municipality's proportion of the funds necessary for the work*), and may issue debentures of the corporation to that amount in sums of not less than \$50 each, and payable within _____ years from the date of the said debentures with interest at the rate of _____ per centum per annum, that is to say: (*insert the manner of payment annually and whether with or without coupons, and if the latter, omit the last clause of this paragraph*) such debentures to be payable at _____, and to have attached to them coupons for the payment of interest.

3rd. For paying the sum of (\$410), the amount charged against the said lands and roads for benefit, and the sum of (\$180), the amount charged against said lands and roads for outlet liability, and the sum of (\$135), the amount charged against said lands and roads for injuring liability, apart from lands and roads belonging to or controlled by the municipality, and for covering interest thereon for _____ years, at the rate of _____ per centum per annum, the following total special rates over and above all other rates shall be assessed, levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the undermentioned lots and parts of lots and roads, and the amount of the said total special rates and interest against each lot or part of lot respectively shall be divided into equal parts, and one such part shall be assessed, levied and collected as aforesaid, in each year, for _____ years, after the final passing of this by-law, during which the said debentures have to run.

Concession.	Lot or part of lot.	Acres.	Value of benefit.	Value of outlet liability.	Value of injuring liability.	To cover interest for years at per cent.	Total special rate.	Annual assessment during each year for years.
10	5	200	\$ 100 00	\$ 23 00	\$ c.	\$ c.	\$ c.	\$ c.
10	S. 6	100	50 00	10 00				
10	N. 6	50	30 00	5 00				
10	S. W. 8	100	80 00	13 00				
10	S. W. & N. 9	150	150 00	20 00				
10	N. 4		.....	24 00				
10	S. 3	100	.....	13 00				
9	W. 5	100	.....		40 00			
9	N. 6	50	.....		25 00			
9	N. E. & N. 7	150	.....	.....	70 00			
Total for benefit			410 00	108 00	135 00			
" outlet			108 00					
" injuring			135 00					
Roads (and lands) of municipality			100 00					
Total			\$753 00					

4th. For paying the sum of (\$100), the amount assessed against the said roads and lands of the municipality, and for covering interest thereon for years at the rate of per centum per annum, a special rate on the dollar, sufficient to produce the required yearly amount therefor shall, over and above all other rates, be levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the whole rateable property in the said of in each year for years, after the final passing of this by-law, during which the said debentures have to run.

5th. This by-law shall be published once in every week for four consecutive weeks in the , newspaper, published in the town of (or printed and served or mailed as prescribed), and shall come into force upon and after the final passing thereof, and may be cited as the " By-law."

CHAPTER 199.

An Act respecting Municipal Arbitrations.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Municipal Arbitrations Act*. 3-4 Geo. V. c 49, s. 1.

Appointment
of Official
Arbitrator.Rev. Stat.
c. 192.

2.—(1) All claims against the corporation of a city having a population of not less than 100,000 for compensation or damages for land expropriated or injuriously affected under *The Municipal Act*, and all other claims and questions arising under any lease or other contract to which the corporation is a party, and which by law or by the terms of the lease or contract are to be determined by arbitration, shall be heard and determined by an official referee appointed by the Lieutenant-Governor in Council and who shall be called the Official Arbitrator.

Powers, etc.,
of Official
Arbitrator.
Qualification.

(2) The Official Arbitrator shall

(a) be a barrister of at least ten years' standing at the bar of Ontario;

Powers.
Rev. Stat. c. 56.
Rev. Stat.
c. 192.
Rev. Stat. c. 65.

(b) have all the powers of an official referee under *The Judicature Act* and of an arbitrator under *The Municipal Act* or under *The Arbitration Act*;

Status.

(c) be an officer of the Supreme Court;

Disability.

(d) not act as solicitor or counsel for or against the corporation or for any other municipal corporation;

Other powers.

(e) have all the powers of a Judge of the Supreme Court including those relating to the production of books and papers, the amendment of notices for compensation or damage and of all other notices and proceedings, the rectification of errors or omissions, the time and place of taking examinations and views, the assistance of engineers, surveyors or other experts, and as respects all matters incident to the hearing and determination of matters before him or proper for doing complete justice therein between the parties,

including the power of awarding costs. 3-4 Geo. V. c. 49, s. 2.

3. If any person interested in any such claim or question desires that the same should be determined by the Official Arbitrator he shall give to the clerk of the municipality and to every other person interested seven clear days' notice that the same is so referred, specifying therein the nature of the claim or question to be determined, and the amount in controversy; and upon such notice, with proof of the service of it, being filed with him the Official Arbitrator may proceed to hear and determine the matters so referred to him. 3-4 Geo. V. c. 49, s. 3.

Commencement of proceedings under Act.

4. Where the Official Arbitrator proceeds partly on view or upon any special knowledge or skill possessed by himself he shall put in writing as part of his reasons a statement of such matter sufficiently full to allow the Divisional Court to determine the weight which should be attached to it. 3-4 Geo. V. c. 49, s. 4.

When arbitrator to state reasons in writing.

5. The award of the Official Arbitrator, with his notes of evidence and exhibits and the reasons of his decision, shall be filed in the office of the registrar of the Appellate Division, and notice of the filing shall forthwith be given by the Official Arbitrator to the parties who appeared or were represented upon the reference or to their solicitors; and upon the request of any of the parties interested in the inquiry the notes taken by the shorthand writer, if any, shall be extended by him and, upon payment of his proper fees therefor, shall be filed with the registrar. 3-4 Geo. V. c. 49, s. 5.

Filing award.

Extending notes of evidence.

6. The award when so filed shall not be made public until all the fees payable to the Official Arbitrator have been paid to him. 3-4 Geo. V. c. 49, s. 6.

Fees to be paid before award made public.

7. The award may be appealed against to a Divisional Court in the same manner as the decision of a Judge of the Supreme Court sitting in Court is appealed from, and shall be binding and conclusive upon all parties to the reference unless appealed from within six weeks after notice that it has been filed. 3-4 Geo. V. c. 49, s. 7.

Appeal to Divisional Court.

8. The time of any vacation of the Supreme Court shall not be reckoned in the computation of the time for doing any act or taking any proceeding in relation to the appeal. 3-4 Geo. V. c. 49, s. 8.

Vacation.

9. Where no appeal is taken within the prescribed time, or when an appeal has been disposed of, the exhibits may be delivered out to the parties entitled to them. 3-4 Geo. V. c. 49, s. 9.

Giving out exhibits when no appeal.

Transferring
actions to
Arbitrator.

10. Where an action has been brought or is pending the Court or a Judge thereof, if of opinion that the relief sought is properly the subject of a proceeding under this Act, on the application of either party or otherwise, may at any stage of the action order it to be transferred to the Official Arbitrator on such terms as to costs and otherwise as may be deemed proper; and the Official Arbitrator shall thereupon give such directions as to the prosecution of the claim before him as he may deem just and convenient, and, subject to the provisions, if any, in respect thereto in the order of transfer, the costs of the action shall be in his discretion. 3-4 Geo. V. c. 49, s. 10.

How costs to
be taxed.

11. Costs awarded by the Official Arbitrator shall be taxed by one of the taxing officers of the Supreme Court, and shall be taxed upon such scale and be payable to such parties as may be determined by the Official Arbitrator. 3-4 Geo. V. c. 49, s. 11.

Fees of Official
Arbitrator.

12.—(1) The Official Arbitrator shall be entitled to be paid for his services while sitting upon any arbitration at the rate of \$20 per day, or a proportionate part thereof where a sittings upon any one day occupies less than a whole day; and for a meeting, at which the reference is not proceeded with but a postponement is made at the request of any party, \$4.

By whom
payable.

(2) One-half of such fees shall be payable by each of the parties to the reference if only two parties are interested, and proportionately by all parties interested if a larger number than two are so interested; but the Official Arbitrator shall have power to award that any sum so paid or payable may be recoverable by any one or more of the parties from any other or others of them, and such fees shall be recoverable as any other costs of the arbitration.

Recovery
of fees.

(3) If the award is not taken up within thirty days after service upon the parties of the notice of filing thereof the fees and expenses of the Official Arbitrator shall be recoverable by action from any one or more of the parties to the arbitration.

Idem.

(4) Nothing herein shall prejudicially affect the right of the arbitrator to recover his fees or expenses in any way in which they may now be recovered. 3-4 Geo. V. c. 49, s. 12.

Appointment
of assessor.

13.—(1) The Lieutenant-Governor in Council may appoint for such municipality an assessor of sound judgment, experience and knowledge in and as to matters relating to real property within the municipality to sit with the Official Arbitrator.

In what
cases to be
called in.

(2) The assessor shall be called upon by the Official Arbitrator—

(a) upon the request of all the parties to an arbitration, and at any stage of the proceedings; or

(b) where the Official Arbitrator desires his advice and assistance, and no party to the proceedings objects thereto, at the time he is so called upon.

(3) The assessor shall not make or join in the award, but shall otherwise give the Official Arbitrator such assistance as he may require. Function of assessor.

(4) The assessor shall be entitled for his services while sitting on an arbitration to be paid at the rate of \$10 per day, or a proportionate part thereof where a sitting on any one day occupies less than a whole day; and for a meeting where the reference is not proceeded with but a postponement is made at the request of any party, \$2. Assessor's fee.

(5) The fees of the assessor shall be payable by the same parties and in the same proportion and manner and shall be recoverable in the same way as those of the arbitrator, and shall be treated in all respects in the same manner as the fees of the arbitrator as to the ultimate payment thereof and as to the manner of such payment. 3-4 Geo. V. c. 49, s. 13. How payable.

14.—(1) The Judges of the Supreme Court shall have the same power to make rules with respect to matters and proceedings under this Act and tariffs of fees as they have in respect to proceedings under *The Judicature Act*. Power to make rules and tariff. Rev. Stat. c. 56.

(2) Such rules and tariffs shall be published in the *Ontario Gazette* and shall thereupon have the force of law, and the same shall be laid before the Assembly forthwith after such publication if the Assembly is then in session, and if it is not then in session then within fifteen days after the opening of the next session. 3-4 Geo. V. c. 49, s. 14. Publication of rules and tariff.

15.—(1) This Act shall extend and apply to the County of York and to the Township of York, and to any municipality the council of which by by-law declares that it is desirable that the municipality shall be brought within the provisions of this Act; and in that case this Act shall be read as though it had been expressly applied to such municipality by the terms thereof. Application Act.

(2) Where the council of any such municipality has by by-law so declared, or shall hereafter so declare, an Official Arbitrator may be appointed for such municipality by the Lieutenant-Governor in Council; and he shall have and may exercise within such municipality all the powers conferred upon the Official Arbitrator by this Act. Appointment in such cases.

(3) The council of a municipality which has passed a by-law under subsection 1 may repeal it at any time after the expiration of six months from the passing of the by-law; and upon such repeal this Act shall cease to apply or be in force in such municipality. 3-4 Geo. V. c. 49, s. 15. Repeal of by-law bringing Act into force.

CHAPTER 200.

An Act to make better provision for keeping and auditing Municipal and School Accounts.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Short title.

1. This Act may be cited as *The Municipal and School Accounts Audit Act. New.*

Act not to apply to cities of over 15,000.

2. This Act shall not apply to any city which by the latest enumeration of the assessors is found to have a population of over fifteen thousand. R.S.O. 1897, c. 228, s. 1.

Appointment of Provincial Municipal Auditor.

3. The Lieutenant-Governor in Council may from time to time appoint for the purposes of this Act a Fellow of the Institute of Chartered Accountants of Ontario or some other expert accountant who shall be known as "The Provincial Municipal Auditor." R.S.O. 1897, c. 228, s. 2.

Auditor may make rules subject to approval by Order in Council.

4. The Provincial Municipal Auditor, subject to the approval of the Lieutenant-Governor in Council, shall from time to time frame rules respecting

- (a) The number and forms of books of account to be kept by the treasurer of every municipality and police village;
- (b) The system of book-keeping to be adopted by the treasurers of all or any class of municipal corporations, and by the treasurers of all or of any class of school boards;
- (c) The manner in which books of accounts, vouchers, receipts, money and securities of municipal corporations and school boards shall be kept;
- (d) The audit and examination of accounts and money of municipal corporations and of school money by municipal and school auditors respectively, or by the Provincial Municipal Auditor or by any person appointed by him for that purpose. R.S.O. 1897, c. 228, s. 3.

Rules to have force of law.

5. Such rules shall, after approval by the Lieutenant-Governor in Council and publication in *The Ontario Gazette*, have the force of law, and any officer of a municipal

corporation guilty of any wilful act or omission in contravention of such rules, in addition to any other penalty provided by law, shall incur a penalty of not less than \$20 nor more than \$100, and shall be disqualified for the period of two years thereafter from holding any municipal office. R.S.O. 1897, c. 228, s. 4. Penalty for violation of rules.

6. In order that municipal accounts may be kept correctly and according to a uniform method the auditor shall prepare a book or sets of books of account upon a proper system for use by the corporation of a municipality, or by a police village; and he shall submit such books to the Lieutenant-Governor in Council for approval. R.S.O. 1897, c. 228, s. 5. Auditor to prepare books for municipalities.

7. The auditor, when directed by and subject to the approval of the Lieutenant-Governor in Council, shall also from time to time prepare books of account upon a simple and uniform system of book-keeping for use by school boards throughout Ontario. R.S.O. 1897, c. 228, s. 6. Books for use of school boards.

8.—(1) After the approval of such books and after notice of their preparation and publication has been given in *The Ontario Gazette* and in two newspapers published in the city of Toronto once a week for three successive weeks, and after notice of such approval has been sent by registered post to the clerk of each municipal corporation, the council of each of such municipalities and each of such school boards shall, at the beginning of the next year after the last publication of such notice, procure the book or books prescribed for the municipal corporation or board, and shall keep the accounts of the corporation or board therein and in accordance with the system provided thereby. Councils and boards to procure books prescribed.

(2) Any municipal corporation which refuses or neglects so to do shall incur a penalty of \$100 for every month it may be in default; and every school board of a city or town which refuses or neglects so to do shall incur a penalty of \$50, and every other school board shall incur a penalty of \$25 for every month it is in default. Penalties.

(3) Such penalties shall be recoverable by the Auditor or with his consent by any ratepayer of the municipality. By whom recoverable.

(4) Where a municipal corporation or board establishes to the satisfaction of the Auditor that the system adopted and the books in use are sufficient and satisfactory, and the Auditor so certifies, the use of the books or the adoption of the system hereinbefore provided for shall not be compulsory and the penalties in such cases shall not be incurred. R.S.O. 1897, c. 228, s. 7. When use of prescribed books or system not compulsory.

9. If, in the opinion of the Auditor, such book or any one or more of them are not likely to be published by some responsible publisher the Auditor may call for tenders for Arrangements for publication of books.

their publication and, with the approval of the Lieutenant-Governor in Council, may arrange for such publication and for the sale thereof, and in order that such books may be supplied to the public at a reasonable cost may, with the like approval, fix the price at which the same shall be sold. R.S.O. 1897, c. 228, s. 8.

Inspection and
audit of muni-
cipal accounts.

10.—(1) The Auditor may at any time on his own motion, or whenever requested by any two members of a municipal council, make an inspection, examination or audit of the books, accounts, vouchers and money of any municipal corporation in the hands of the treasurer or collector thereof; and when requested by a writing signed by thirty ratepayers resident in the municipality and directed by the Lieutenant-Governor in Council so to do he shall make such inspection, examination or audit.

Or of school
accounts.

(2) The Auditor may at any time of his own motion make an inspection, examination or audit of the books, accounts, vouchers and money of any school board in the hands of its treasurer, collector or other officer.

Inspection by
chartered
accountant.

(3) The Auditor may, with the approval of the Lieutenant-Governor in Council, appoint a Fellow of the Institute of Chartered Accountants of Ontario or some other expert accountant who is familiar with municipal accounts to make such inspection, audit or examination, and the person so appointed shall have all the powers and shall perform all the duties by this Act conferred or imposed upon the Auditor when acting under this section. R.S.O. 1897, c. 228, s. 9.

Powers of
auditor while
holding inves-
tigation.

11. The Auditor upon any such audit, examination or inspection may require the treasurer, collector or auditor of any municipal corporation or school board or any other person to appear and give evidence on oath, and for this purpose he shall have the same power to summon such officers or other persons to attend as witnesses, to enforce their attendance and to compel them to produce books and documents and to give evidence as any Judge or Court has in civil cases, and the officers of all municipal corporations and school boards shall as often as required by the Auditor produce all books and documents required to be kept by them at the treasurer's office for examination and inspection. R.S.O. 1897, c. 228, s. 10.

Treasurer
to notify
auditor of
appointment.

12. Every treasurer of a municipal corporation shall, within five days after his appointment to office, inform the Auditor of his appointment and of his full name and post office address. R.S.O. 1897, c. 228, s. 11.

Treasurer to
produce books
when required
by auditor.

13. The treasurer of every municipal corporation shall, whenever requested so to do by the Auditor, at any reasonable time, produce and exhibit for examination and inspection

all books, accounts, vouchers and documents in his hands as such treasurer. R.S.O. 1897, c. 228, s. 12 (1).

14. The Auditor or any other person making an audit, ^{Report on inspection, audit, etc.} inspection or examination under this Act shall report thereon to the council of the municipal corporation and to the Lieutenant-Governor, and shall in such report make such recommendations as seem to him to be necessary to carry out the provisions of this Act and *The Municipal Act* ^{Rev. Stat. c. 192.} and the School Laws as regards the keeping of the books and accounts of the municipal corporation or board and so as best to secure its money and assets. R.S.O. 1897, c. 228, s. 13.

15. Every member of a municipal council shall by every means in his power procure the due observance by the council and the officers of the corporation of the provisions of this Act and the rules to be made hereunder, and shall see that the recommendations of the Auditor or of any person appointed by him as hereinbefore mentioned when concurred in and approved of by the Auditor are duly carried out. ^{Members of councils to see that Act carried out.} R.S.O. 1897, c. 228, s. 14; 4 Edw. VII. c. 10, s. 53.

16.—(1) Where the Auditor personally conducts an audit, inquiry, inspection or examination under this Act the fees and expenses to be allowed therefor shall be determined and certified by the Attorney-General, and shall become a debt due to the Crown from the municipal corporation, and in default of payment thereof the Treasurer of Ontario may deduct the same from any money payable to the corporation by the Province, or such fees and expenses may be recovered by and in the name of the Auditor. ^{Payment of expenses of inspection, audit, etc., by auditor.} R.S.O. 1897, c. 228, s. 15.

(2) Where such audit, inquiry, inspection or examination is conducted by any person other than the Auditor the fees and expenses to be allowed for the same shall be determined by the Auditor, subject to the approval of the Attorney-General, and shall thenceforth become a debt due to such person by the municipal corporation, and shall be payable within three months after demand thereof at the office of the treasurer of the municipal corporation. ^{Payment of expenses of work done by another person.} R.S.O. 1897, c. 228, s. 16.

17. The Auditor shall not receive from any municipal corporation or from any officer thereof any fees or other remuneration for services rendered by him in the performance of the duties of his office, but he shall be paid out of such money as may be appropriated by this Legislature for the purposes of this Act such salary as shall be voted by the Assembly. ^{Remuneration of auditor.} R.S.O. 1897, c. 228, s. 17.

18. Every person guilty of any act or omission in contravention of this Act for which no other penalty is provided ^{Penalties.}

shall incur a penalty of not less than \$5 and not more than \$20. R.S.O. 1897, c. 228, s. 23.

How
recoverable.
Rev. Stat. c. 90,

19. Except where otherwise provided all penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*.

Securities
heretofore
given by
treasurers not
affected.

20. Nothing in this Act shall affect or impair any security heretofore given by any treasurer to a municipal corporation or school board for the due and faithful performance of the duties of his office, nor relieve the sureties named in any bond or other security from liability in case of default on the part of the treasurer in duly accounting for all money coming into his hands, nor shall anything herein contained relieve the council or board or any member thereof from the duty of appointing competent auditors. R.S.O. 1897, c. 228, s. 24.

CHAPTER 201.

An Act to exempt Firemen from Certain Local Services.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Firemen's Exemption Act*. Short title.
3-4 Geo. V. c. 50, s. 1.

2. Whenever any company of firemen has been regularly enrolled in any city, town or place, with the approval of the council of the municipality, the council shall direct the clerk to grant to each member of such company a certificate that he is enrolled in the same, which certificate shall exempt the person named therein, during the period of his enrolment and his continuance in actual duty, from serving as a jurymen or a constable and in any municipal office. 3-4 Geo. V. c. 50, s. 2.

When firemen to be exempted from serving as jurors and in certain other offices.

3. Upon complaint to the council of neglect of duty by any member of such fire company the council shall examine into the same and for any such cause, and also in case any member of such company is convicted of a breach of any of the rules legally made for the regulation of the same, may strike off the name of any such member from the list of the company and thenceforward the certificate granted to such member shall have no effect in exempting him from any duty or service. 3-4 Geo. V. c. 50, s. 3.

Forfeiting exemption in case of misconduct.

4.—(1) Where any member of any company of firemen has regularly and faithfully served for seven consecutive years in the same he shall be entitled to receive, upon producing due proof of such service, a certificate from the clerk that he has been regularly enrolled and has served as a member of the fire company for the space of seven years.

Firemen having served seven years exempted from serving in certain offices.

(2) Such certificate shall exempt the person named therein from serving as a constable and in any municipal office. 3-4 Geo. V. c. 50, s. 4.

Idem.

5.—(1) The council of a city may by by-law enact that when a member of a company of firemen regularly enrolled in such city has regularly and faithfully served in such company for seven consecutive years, such member, upon produc-

Powers of a city council as to further exemption.

Certificate to
that effect.

ing due proof of such service, shall receive a certificate from the clerk that he has been regularly enrolled and has served as a member of the company for the space of seven years.

Effect of
certificate.

(2) Such certificate shall exempt the person named therein from the payment of any personal statute labour tax thereafter and from serving as a juror on the trial of any cause in any court. 3-4 Geo. V. c. 50, s. 5.

[As to exemption of firemen from jury services, see *The Jurors Act*, Rev. Stat. c. 64, s. 4; and as to exemption from Municipal offices, see *The Municipal Act*, Rev. Stat. c. 192, s. 55.]

CHAPTER 202.

An Act respecting Public Libraries and Art Schools.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Public Libraries Act.*" Short title.
9 Edw. VII. c. 80, s. 1.

2. In this Act,— Interpretation.

- (a) "Board" in Part I. shall mean a Public Library "Board."
Board, in Part II. shall mean a Board of Management of a Public Library Association, and in Part III. shall include both;
- (b) "Electors" shall mean persons qualified to vote at "Electors,"
municipal elections;
- (c) "Minister" shall mean Minister of Education; "Ministor."
- (d) "Regulations" shall mean regulations made under "Regulations."
the authority of *The Department of Education* Rev. Stat.
Act. 9 Edw. VII. c. 80, s. 2. c. 265.

PART I.

ESTABLISHMENT AND MANAGEMENT.

3. A public library may be established in any city, town, Establishment of public
village, or police village in manner hereinafter provided. libraries.
9 Edw. VII. c. 80, s. 3.

4.—(1) The council of a city, town or village upon receipt Petition for
of a petition, Form 1, signed, in the case of a city by at least
one hundred, in the case of a town by at least sixty, and in
the case of a village by at least thirty electors, shall prepare
and submit to the electors in the manner provided by *The* Rev. Stat.
Municipal Act a by-law, Form 2, for the establishment of c. 192.
a public library.

(2) The council of the township, or the councils of the Township by-
townships in which a police village is situate, upon receipt of laws for
a petition, Form 1, signed by at least thirty electors resident police villages.
in such police village, shall prepare and submit to the electors
within the police village a by-law, Form 2, for the establish-
ment of a public library therein.

By-law
for taking
over property
of library
association.

(3) Where an association has been established under Part II., or under any Act relating to Mechanics' Institutes, and the members of such association, at any annual meeting or at a special meeting called for the purpose, by resolution declare that they desire that the library of the association be transferred to a board appointed under this Part, the council may submit to the electors a by-law for taking over the assets and property of the association and for establishing the library as a public library under this Part. 9 Edw. VII. c. 80, s. 4.

Duty of
council to
pass by-law.

5. Where the by-law receives the assent of the majority of the electors voting thereon it shall be the duty of the council to pass the same without unnecessary delay. 9 Edw. VII. c. 80, s. 5.

If defeated
not to be
re-submitted
in same year.

6. Where the by-law does not receive such assent no new by-law for the same purpose shall be submitted to the electors within the same year. 9 Edw. VII. c. 80, s. 6.

Board of
management.

How
constituted.

7.—(1) The general management, regulation and control of the library, and of any reading-room and museum established in connection therewith shall be vested in a board, which shall be composed of the mayor of the city or town, or the reeve of the village or township, and three other persons to be appointed by the council, three by the public school board, or the board of education, and two by the separate school board, if any.

Board in
police village,
how composed.

(2) The board in a police village shall be composed of the police trustees and two persons appointed by the board of the school section or each of the school sections comprised in, or forming part of the police village, and two persons appointed by the separate school board, if any, having jurisdiction in the police village.

Who not
eligible.

(3) No person who is a member of the body entitled to appoint shall be qualified to be a member of the board, and no person shall be appointed who is not a British subject and a resident of the municipality or police village.

Annual retire-
ment of one
member from
each class.

(4) Of the members appointed by the council, and the public school board, or board of education and the separate school board, respectively, one shall retire annually but may be reappointed.

Term of office
of first mem-
bers.

(5) Of the three members first appointed by the council and public school board or board of education respectively, one shall be appointed to hold office until the first day of February after his appointment, one until the first day of February in the following year, and one until the same day in the year next thereafter; and of the two members first appointed by the separate school board one shall be appointed to hold office until the first day of February after

his appointment, and one until the first day of February in the following year; but every member shall continue to hold office until his successor is appointed.

(6) If a member of the board is convicted of any offence against the criminal laws of Canada, or becomes insane, or absents himself from the meetings of the board for three consecutive months without being authorized by resolution entered upon its minutes, or ceases to be a resident within the municipality or police village, he shall *ipso facto* vacate his seat, and the remaining members shall forthwith declare his seat vacant and notify the appointing body accordingly. When office of library trustee to become vacant.

(7) In case of a vacancy by the death or resignation of a member, or from any cause other than the expiration of the term for which he was appointed, the member appointed in his place shall hold office for the remainder of the term. Vacancies.

(8) Subject to the foregoing provisions each of the members appointed by the council, or public school board, or board of education, shall hold office for three years from the first day of February in the year in which he is appointed; and each of the members appointed by the separate school board, for two years from the first day of February in the year in which he is appointed. Terms of office of subsequent members.

(9) The first appointment of members shall be made at the first meeting of the appointing body after the final passing of the by-law, and the annual appointments thereafter shall be made at the first meeting of the appointing body after the first day of January in each year; and any vacancy arising from any cause, other than the expiration of the time for which a member was appointed, shall be filled at the first meeting thereafter of the appointing body, but if for any reason an appointment is not made at the prescribed time the same shall be made as soon as may be thereafter. When appointments to be made.

(10) The board shall be a body corporate by the name of Corporate name. "The ——— Public Library Board," inserting the name of the municipality or police village.

(11) The board shall, at the first meeting in February of each year, elect one of its number as chairman who shall hold office for one year, and he shall preside at meetings of the board when present, and in his absence a chairman may be chosen *pro tempore*, and the chairman shall have the same right of voting as the other members of the board, and no other, and any question upon which there is an equality of votes shall be deemed to be negatived. Chairman.

(12) The board shall meet at least once in every month and at such other times as it may think fit. Meetings.

(13) The chairman or any two members may summon a special meeting of the board by giving at least two days' Special meetings.

notice in writing to each member specifying the purpose for which the meeting is called.

Quorum.

(14) No business shall be transacted at any general or special meeting unless four members are present.

Record of business.

(15) All orders and proceedings of the board shall be entered in books to be kept for that purpose and shall be signed by the chairman.

Record as evidence.

(16) The orders and proceedings so entered and purporting to be so signed shall be deemed to be the originals thereof, and such books may be produced and read as evidence of the orders and proceedings in any judicial proceeding. 9 Edw. VII. c. 80, s. 7.

Duties of board.

8.—(1) Subject to the restrictions and provisions herein-after contained the board shall procure, erect, or rent the necessary buildings for the purposes of the library and reading-room, and for all other purposes authorized by this Act; and shall purchase books, newspapers, magazines, maps and specimens illustrative of the arts and sciences for the library, reading-room and museum, and do all things necessary for keeping the same in a proper state of preservation and repair; and shall provide the necessary fuel, lighting, and other accommodation; and may appoint and dismiss at pleasure the officers and servants of the board.

Limit as to expenditure on capital account.

(2) A board shall not in any year purchase any land or erect any buildings or make any addition or alterations thereto exceeding in cost \$2,000 without the authority of the municipal council. 9 Edw. VII. c. 80, s. 8 (1, 2).

Reading-rooms, branch libraries, museums.

(3) A board may open a reading-room or museum, or both, in connection with the library; may establish branch libraries and branch reading-rooms in the municipality or police village. 9 Edw. VII. c. 80, s. 8 (3); 1 Geo. V. c. 79, s. 16 (1), *part*.

Museums in cities of 100,000.

(4) In a city having a population of 100,000 or over the board shall not establish a museum without the consent of the municipal council. 9 Edw. VII. c. 80, s. 8 (4).

Library Board in city of 200,000 may lease unoccupied portion of premises for Art museum.

(5) The Board of a Public Library of a city having a population of 200,000 or over may permit an incorporated Art Museum to occupy, for the purposes of its gallery or museum, any part of the library building not required for immediate use for the purposes of the board upon such terms and conditions and for such period, not exceeding five years, as may be agreed on, provided that it be a term of the agreement that the board may determine such right of occupation whenever the space is required for the purposes of the board, and that it be also a term of the agreement that the pictures and objects of art of the museum shall be open to public view free of charge on such days as the board and

the Council of the museum may agree. 9 Edw. VII. c. 80, s. 8 (7).

9.—(1) The board may make rules for the use of the library, reading-rooms and museum, and for the admission of the public thereto, and for regulating all other matters and things connected with the management of the library, reading-rooms, and museum; and for the management of all property under its control; and may impose penalties for breaches of the rules, not exceeding \$10, for any offence. 9 Edw. VII. c. 80, s. 9 (1); 1 Geo. V. c. 79, s. 16 (1), *part*.

Board may make by-laws respecting use of library.

(2) After such rules have been published once a week for at least two weeks in a newspaper published in the municipality or police village, or in a newspaper circulated therein if no newspaper is published therein, they shall be binding on all persons concerned.

Promulgation of regulations.

(3) Nothing herein shall preclude the recovery of the value of articles or things damaged, or the amount of damage sustained, from persons liable for the same. 9 Edw. VII. c. 80, s. 9 (2, 3).

Recovery of damages.

10. The board shall submit to the municipal council, on or before the fifteenth day of February in each year, a detailed estimate of the several sums required for the ensuing financial year to pay

Submission of estimates by board to council.

(a) the interest on any money borrowed as hereinafter mentioned, and

(b) the amount required to be raised for the sinking fund, or to pay any instalment of principal and interest, and

(c) the expense of maintaining and managing the libraries, reading-rooms and museums under its control. 9 Edw. VII. c. 80, s. 10; 1 Geo. V. c. 79, s. 16 (1), *part*.

11. The board shall keep distinct and regular accounts of its receipts, payments, credits and liabilities, and the accounts shall be audited by the municipal auditors at the expense of the municipal corporation in like manner as the accounts of a municipal corporation, and shall, after having been audited, be laid before the council by the board. 9 Edw. VII. c. 80, s. 11; 3-4 Geo. V. c. 51, s. 1.

Board to keep regular accounts.

12.—(1) The council of the municipality, in addition to all other rates and assessments levied and assessed for municipal purposes, shall levy and assess in each year a special rate to be called "The Public Library Rate" sufficient to provide the amount estimated by the board as hereinbefore provided, but such rate shall not exceed one-half mill in the dollar unless, by a vote of two-thirds of all the members of

Special rate for library purposes.

the council, such rate is increased to an amount not exceeding in the whole three-fourths of a mill in the dollar.

In cities of
100,000.

(2) In a city having a population of 100,000 or over the council shall not levy in any year a rate greater than one-quarter of one mill in the dollar, and such further rate as may be necessary to raise the money required to pay the annual interest and sinking fund on money borrowed for the purpose of acquiring a site or of purchasing or erecting buildings.

Rates for
public
library in
police village.

(3) The council of the township in which a police village in which a public library has been established, under the provisions of this Part, is situate, in addition to all other rates and assessments levied and assessed for municipal purposes in the police village, shall levy and assess in each year a special rate to be called "The Public Library Rate" sufficient to provide the amount estimated by the board, not exceeding one-half mill in the dollar on the assessment of the police village.

By-laws for
incurring
debts for free
libraries.

(4) Where a board requires the council to raise money for the purpose of acquiring a site or purchasing or erecting buildings, which money, together with the amount required for the expense of maintaining and managing the libraries, reading-rooms, museums, classes and art schools under its control, would involve the levy in any one year of a rate greater than one-quarter of a mill in the dollar, in the case of a city having a population of 100,000 or over, or greater than one-half mill in the dollar in the case of any other municipality and of a police village, the council, by a two-thirds vote of all the members thereof, may refuse to raise such sum, and, if the board so requires, the question shall be submitted by the council to a vote of the electors of the municipality entitled to vote on money by-laws, in the manner provided by *The Municipal Act*, and in the event of the assent of the electors being obtained it shall be the duty of the council to raise the amount in the manner provided by that Act.

When assent
of electors
required.

Rev. Stat.
c. 192.

Public library
debentures.

(5) The council may also, subject as hereinafter provided, on the requisition of the board, raise by a special issue of debentures of the municipality, to be termed "Public Library Debentures," such sums as may be required for the purpose of acquiring a site or of purchasing and erecting the necessary buildings, and in the first instance, for obtaining books and other things required.

Interest and
sinking fund.

(6) During the currency of the debentures so issued the council shall withhold and retain, as a first charge on the annual rate, the amount required to be raised in the year to provide for the payment or redemption of the debentures and the interest thereon.

(7) All money so levied or raised shall be received by the treasurer of the municipality in the same manner as other municipal funds, and be paid out by him on the order of the board, save as to the amount required to be raised in the year to provide for the payment or redemption of the debentures and the interest thereon.

Application of moneys raised on debentures.

(8) It shall not be necessary to submit to the electors a by-law authorizing the issue of debentures if the annual sum required to be raised in the year to provide for the payment or redemption of the debentures and the interest thereon does not exceed one-half mill in the dollar.

When by-law need not receive assent of electors.

(9) Notwithstanding anything contained in this Act a municipal corporation may issue debentures for the purposes of this Act, according to the provisions of *The Municipal Act*.

Debentures under Municipal Act. Rev. Stat. c.192.

(10) Notwithstanding anything in this section the council of a city having a population of 100,000 or over may submit to the electors qualified to vote on money by-laws, a by-law for raising money for acquiring a site or for purchasing or erecting buildings, and if so submitted the council shall not be required to pass such by-law until it has been approved of by a majority of such electors voting thereon. 9 Edw. VII. c. 80, s. 12.

Submission of by-law to electors in cities of over 100,000.

13. All libraries, reading-rooms and museums established under this Part shall be open to the public free of charge; provided, however, that the board may impose such fee as seems proper on non-residents who may desire to use the library, reading-room or museum. 9 Edw. VII. c. 80, s. 13.

Admission to be free.

Use of library by non-residents.

14. Any municipality or school section contiguous or near to a city, town, village or township in which a public library is situate may enter into an agreement with the board for the use of such library and for such representation on the board as may be deemed expedient. 9 Edw. VII. c. 80, s. 14.

Municipalities may unite.

15. The teachers' institute of any inspectorate in which a public library is situate may place the books held by such institute in the custody of the board, and on so doing shall be entitled to appoint one member of the board, and in such cases every member of such teachers' institute shall be entitled to use the public library on the same terms as residents of the municipality in which the library is situate. 9 Edw. VII. c. 80, s. 15.

Rights of teachers' institute.

16. Every farmers' institute or woman's institute may affiliate with any public library on terms to be agreed upon with the board, and in the event of such affiliation every member of such farmers' institute or woman's institute shall be entitled to use the library on the same terms as residents

Affiliation of farmers' or woman's institutes.

of the municipality in which the library is situate. 9 Edw. VII. c. 80, s. 16.

PART II.

LIBRARY ASSOCIATIONS.

Establishment
of Associa-
tion.

17.—(1) In a township, and in any other municipality in which a public library has not been established under Part I, any number of persons not less than ten, being British subjects and not less than 21 years of age, may form an association for the purpose of establishing a public library, reading rooms and evening classes by making a declaration, Form 3, and filing the same with an affidavit of the due execution thereof in the office of the Registrar of Deeds for the registration division in which the public library is to be situate.

Fee on register-
ing declara-
tion.

(2) For the filing of the declaration and for every certified copy the registrar shall be entitled to a fee of fifty cents.

Transmission
to Minister.

(3) A copy of such declaration shall be transmitted to the Minister.

Incorporation.

(4) The persons whose names are subscribed to the declaration and all persons who become members of the association as provided by section 18, shall be a body corporate by the name of "The ——— Public Library Association," inserting the name of the municipality in which the library is to be established. 9 Edw VII. c. 80, s. 17.

Members.

18. Any person 12 years of age or upwards may be a member of the association, but no person shall be elected or vote at any meeting who is not of the full age of twenty-one years. 9 Edw. VII. c. 80, s. 18.

Board of
Management.

19.—(1) The general management, regulation and control of the library shall be vested in and exercised by a Board of Management, which shall be composed of not less than five nor more than nine persons.

First meeting
for election
of Board.

(2) The persons whose names are subscribed to the declaration of incorporation shall meet within thirty days after the filing thereof and shall elect from among their number the members of the board.

Term of office
of members.

(3) The members so elected shall hold office until their successors are elected.

Annual elec-
tion thereafter.

(4) On the 2nd Monday in January in each year thereafter the members of the association shall meet and elect the members of the board for the year.

Election of
president and
appointment
of officers.

(5) The board shall, as soon after the election as is convenient elect one of its members as president, and shall also appoint a secretary, treasurer, and librarian and such other

officers as may be necessary for the purposes of the association. 9 Edw. VII. c. 80, s. 19.

20.—(1) The board shall provide suitable accommodation for the library, reading-rooms and evening classes, and shall have power to procure, erect or rent buildings for that purpose, and to purchase books, magazines, newspapers and other reading matter for the library and reading-rooms. Duty to provide accommodation.

(2) The board shall make rules for the management and use of the library and reading-rooms and for conducting the business of the board, for holding regular and special meetings, for defining the duties of the officers of the board, and the fees to be paid by members, and generally for such other matters, not inconsistent with this Act, as may be necessary for promoting the usefulness of the public library and reading-rooms and the efficiency and discipline of the evening classes. Rules and regulations.

(3) Minutes of all the proceedings of the board shall be kept and entered in books to be provided for that purpose by the board. 9 Edw. VII. c. 80, s. 20. Minutes.

21. Where a municipal council has passed a by-law for taking over the assets and property of a library association and for establishing the library as a public library under Part I, upon the organization of a board of management under that Part, the association shall be dissolved and thereafter Part I of this Act shall apply to the library, and the assets and property of the association shall vest in the Public Library Board. 9 Edw. VII. c. 80, s. 21. Dissolution of association on taking over library under Part I.

PART III.

GENERAL PROVISIONS.

22. No public library established under Part II. which has not a membership of at least fifty persons over 21 years of age shall be entitled to share in any appropriation for public libraries. 9 Edw. VII. c. 80, s. 22. Conditions precedent to sharing in legislative grant.

23.—(1) Subject to the next preceding section and to the Regulations there shall be paid to the board of every public library established under this Act, out of any money appropriated for that purpose, not more than 50 per cent. of the expenditure made for books, magazines, periodicals, newspapers, bookbinding and materials used for cataloguing and classifying a public library under the Dewey Decimal or Cutter systems or a combination of such systems, but no grant shall be paid upon an expenditure upon books of fiction in excess of 45 per cent. of the amount expended upon other books, and no grant shall exceed in respect of books, book- Legislative grant to public libraries.

binding and materials for so cataloguing and classifying \$200 or in respect of magazines, periodicals and newspapers \$50.

Distribution.

(2) After the money payable under subsection 1 has been apportioned the Minister may authorize the payment out of the residue, if any, of the appropriation of the following sums, or a proportionate part of the same:

- (a) \$5 to a public library which has kept a reading room open not less than three hours per day for three days in each week; or
- (b) \$10 to a public library which has kept a reading room open not less than 3 hours per day for six days in each week; and
- (c) \$5 to a public library whose total receipts are less than \$25 per annum; or
- (d) \$10 to a public library whose total receipts are over \$25 and less than \$100; or
- (e) \$15 to a public library whose total receipts are over \$100 and less than \$200; or
- (f) \$20 to a public library whose total receipts are over \$200 and less than \$500.

Expenses of instruction, etc.

(3) The Minister may authorize to be paid out of any money appropriated for public libraries,

- (a) salaries and expenses of officers of the Department employed in giving special instructions to boards and to librarians, including the cost of books, blue prints, plans of library buildings, manuscripts, engravings and photographs and of other appliances or things authorized by the Minister, and
- (b) expenses incurred in holding meetings of library institutes.

How grant computed.

(4) In estimating the amount to which a public library is entitled only cash payments out of money received by way of grant or gift or as membership fees shall be included, and no public library shall be entitled to any grant under this section by reason of the expenditure of money borrowed by the board or by reason of payments made in promissory notes or in any other way than by cash only.

Training librarians.

(5) Subject to the regulations the Minister may apportion any money appropriated for holding schools for the training of librarians. 9 Edw. VII. c. 80, s. 23.

Travelling libraries.

24. Subject to the regulations the Minister may establish and maintain travelling libraries out of such sums as may be appropriated for that purpose and may purchase books, bookcases and other appliances required therefor and may

pay for cataloguing, classifying and annotating lists of books, and may employ and pay assistants to aid in circulating the libraries and pay the travelling expenses of the assistants. 9 Edw. VII. c. 80, s. 24.

25.—(1) Where a board makes a rule under which an age limit is established for children taking books from the library or a rule prohibiting the public, in the case of a free library, or the members of the association, in the case of any other library, from having free access to the books of the library or of a section of the library, the rule shall not take effect until it has been approved by the Minister. Rules as to access.

(2) If any such rule is in force at the time of the passing of this Act the board shall, within three months of the date of the receipt of a request from the Minister, forward to him a copy of such rule, and the Minister may disallow the same. Disallowance of rule.

(3) Failure to comply with the request of the Minister shall render such rule void. 9 Edw. VII. c. 80, s. 25. When rule void.

26.—(1) Subject to the regulations the Minister may Library institutes.

(a) provide for the establishment of library institutes and for the holding of the meetings thereof;

(b) employ library experts to attend library institute meetings and pay their travelling and other necessary expenses in going to, staying at and returning from the meetings, but nothing shall be paid to them for services;

(c) pay the travelling and other necessary expenses of one delegate from each board in attending a meeting of the institute.

(2) If a board, after having received notice of the date for holding a meeting of the library institute, does not send a delegate to such meeting the Minister may withhold a sum not exceeding \$5 from the next government grant payable to the board.

(3) All expenses incurred in establishing and maintaining library institutes may be paid out of any money appropriated for that purpose or out of any money appropriated for public libraries. 9 Edw. VII. c. 80, s. 26.

27. The Judge of the County or District Court, upon the request of the board of any public library within his jurisdiction, may appoint the janitor to be a special constable, whose special duty it shall be to preserve the peace in the rooms of the library and in the building in which the library is situate, and to prevent the stealing, injury or destroying of the property of the board or association, and to apprehend offenders, and he shall have generally all the powers Janitor may be appointed special constable.

and privileges and be liable to all the duties and responsibilities which pertain to the office of a constable. 9 Edw. VII. c. 80, s. 28.

Neglect to keep library open.

28.—(1) Where a board fails or neglects to keep open the library for two years, or to furnish an annual report, as required by the Regulations, for two consecutive years, such failure or neglect shall effect a dissolution of the corporation, and the Minister may take possession of all its books, magazines and periodicals and dispose of the same as he may deem proper, but nothing herein contained shall confer any authority or control over any land belonging to a board or library association.

Failure to comply with regulations.

(2) Where a board in any year fails to comply with the Regulations the Minister may withhold the whole or any part of the government grant payable to the board for that year. 9 Edw. VII. c. 80, s. 29.

Seat vacated by interest in contract with corporation.

29.—(1) A member of a board shall not enter into any contract, agreement, engagement or promise, either in his own name or in the name of another, and either alone or jointly with another in which he has any pecuniary interest, profit or promised or expected benefit, with the board of which he is a member, or have any pecuniary claim upon or receive compensation from the board for any work, engagement, employment or duty on behalf of the board, and every such contract, agreement, engagement or promise shall be null and void, and a member violating the provisions of this section shall *ipso facto* vacate his seat.

(2) On the complaint of any ratepayer of the municipality or police village, or of the remaining member or members of the board, the Judge of the County or District Court or, if he is a member of the board, the Master in Chambers shall, on proof of the facts, declare the seat vacant, and the secretary of the board shall forthwith notify the appointing body to make a new appointment. 9 Edw. VII. c. 80, s. 30.

Newspaper proprietors inserting official advertisements not disqualified from sitting on boards, etc.

30. No person shall be disqualified from being a member of a board or from sitting and voting on such board by reason only of being proprietor of or otherwise interested in a newspaper or other periodical publication which is subscribed for or in which an advertisement is inserted by the board in the regular course of business if such subscription or advertisement is paid for at the usual rate, but such member shall not be entitled to vote where his own account is in question. 9 Edw. VII. c. 80, s. 31.

Penalty for disturbing a public library.

31. Any person who wilfully interrupts or disquiets a public library, reading-room, or museum by rude or indecent behaviour, or by making a noise either within the building or so near thereto as to disturb the persons using the same, shall

for each offence incur a penalty not exceeding \$20. 9 Edw. VII. c. 80, s. 32; 1 Geo. V. c. 79, s. 16 (1), *part*.

32. The penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act* and shall be paid to the board concerned. 9 Edw. VII. c. 80, s. 33. Recovery of penalties.
Rev. Stat. c. 90.

33. Every public library heretofore established or continued under any Act respecting public libraries is continued and shall be subject to the provisions of this Act. 9 Edw. VII. c. 80, s. 34. Existing libraries, etc., continued.

SCHEDULE.

FORM 1.

(Section 4.)

PETITION.

To the municipal council of

We, the undersigned electors of the city of
(or as the case may be), respectively, pray that a public library may be established in this municipality under *The Public Libraries Act*. 9 Edw. VII. c. 80, Sched. Form 1.

FORM 2.

(Section 4.)

BY-LAW FOR ESTABLISHING A PUBLIC LIBRARY.

A by-law to provide for the establishment of a public library in the city of (or as the case may be).

Whereas electors have petitioned the council of the city of (or as the case may be), praying for the establishment of a public library under *The Public Libraries Act*.

Be it therefore enacted by the municipal council that—

1. In case the assent of the electors is given to this by-law, a public library be established in this municipality in accordance with the provisions of *The Public Libraries Act*.

2. The votes of the electors shall be taken on this by-law on the day of 19, commencing at nine o'clock in the forenoon and continuing until five o'clock in the afternoon, at the undermentioned places: (*Here insert (1) the wards; (2) the polling sub-divisions; (3) the places for holding the poll and the names of the deputy returning officers.*)

3. On the day of next, at his office in the at o'clock in the noon, the mayor (or reeve, or as the case may be), shall appoint in writing, signed by him, two persons to attend at the final summing up of the votes by the clerk, and

one person to attend at each polling place on behalf of the persons desirous of promoting, and a like number on behalf of the persons desirous of opposing the passing of this by-law.

4. The clerk shall attend at the _____ at the hour of _____ o'clock in the _____ noon, on the _____ day of _____ 19____, to sum up the number of votes given respectively for or against the by-law.

A. B.,
Mayor (or Reeve).
C. D.,
Clerk.

Passed the _____ day of _____ 19____.

Notice by Clerk.

The above is a true copy of a proposed by-law which will be taken into consideration by the council of _____ after one month from the _____ day of _____ 19____, being the date of the first publication thereof, and the polls for taking the votes of the electors will be held at the hour, day and places named in the by-law. 9 Edw. VII. c. 80, Sched. Form 2.

FORM 3.

(Section 17.)

DECLARATION FOR ESTABLISHMENT OF A PUBLIC LIBRARY ASSOCIATION.

We, the subscribers hereto, hereby declare our intention to form an association for the purpose of establishing a public library at _____ in the township of _____ (or, as the case may be), and we further declare that the name of the association shall be the Public Library Association, as provided by *The Public Libraries Act*.

Dated the _____ day of _____ 19____.
(Names and descriptions of the applicants.)

9 Edw. VII. c. 80, Sched. Form 3.

CHAPTER 203.

An Act to provide for the Establishment and Maintenance of Public Parks.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Public Parks Act*. 2 Geo. Short title.
V. c. 46, s. 1.

2.—(1) A park, or a system of parks, avenues, boulevards Establishment of parks. and drives, or any of them, may be established in any municipality, and the same, as well as existing parks and avenues, may be controlled and managed in the manner hereinafter provided.

(2) Subject to the provisions of subsection 5, if a petition Petition. is presented to the council of any county or city signed by not less than 500 electors, or to the council of any town or township signed by not less than 200 electors, or to the council of any village signed by not less than 75 electors, praying for the adoption of this Act, the council may pass a by-law By-law. giving effect to the petition, with the assent of the electors qualified to vote at municipal elections, given before the final passing of the by-law as provided by *The Municipal* Rev. Stat. c. 192. *Act*.

(3) If the majority of the votes is in favour of the by- Idem law, it shall be finally passed by the council at its next regular meeting held after the taking of the vote, or as soon thereafter as may be.

(4) If the vote is adverse no by-law for the same pur- Restriction. pose shall afterwards be submitted to the electors within the same year.

(5) It shall not be necessary for a county council to sub- When submission to electors unnecessary mit the by-law for the assent of the electors if the by-law, on the final reading thereof, is approved by three-fifths of the members of the council then present. 2 Geo. V. c. 46, s. 2.

3. The parks, avenues, boulevards, and drives, and ap- Parks to be open to public. proaches thereto, and streets connecting the same, shall be open to the public free of all charge, subject to the by-laws, rules and regulations of the Board of Park Management, and subject also to the provisions of sections 13 and 14. 2 Geo. V. c. 46, s. 3.

Board of Park
management.

4.—(1) In case of the adoption of this Act the general management, regulation and control of all existing parks and avenues, and of all properties both real and personal, applicable to the maintenance of parks belonging to the municipality, and of all parks, avenues, boulevards and drives which may thereafter be acquired and established under the provisions of this Act shall be vested in and exercised by a board to be called "The Board of Park Management."

Authority
of Board
to what
streets ap-
plicable.

(2) The authority of the Board shall not extend to any streets open at the time of the adoption of the Act, with the exception of streets expressly specified in the by-law adopting the Act, or which at any time, or from time to time afterwards, in pursuance of an agreement between the council and the Board, the council by by-law declares to be subject to this Act.

Consent of
Municipal
Council and
Agricultural
Society.

(3) Nothing in this Act shall authorize the Board to assume possession or control of any exhibition park in or belonging to the municipal corporation without the consent of both the council and of any district agricultural society or exhibition association having an interest therein. 2 Geo. V. c. 46, s. 4.

Constitution
of Board.

5. The Board shall be a corporation, and shall be composed of the head of the municipality and of six other persons, who shall be residents of the municipality, but not members of the council, and shall be appointed by the council on the nomination of the head, but the council may refuse to appoint any or all of the persons so nominated, in which case further nominations shall be made by the head, until six persons are nominated who are approved by the council. 2 Geo. V. c. 46, s. 5.

Tenure of
office.

6.—(1) The appointed members of the Board shall hold office for three years, except in the case of the members of the first board, two of whom shall hold office until the 1st day of February in the year following the first appointments, two for one year, and two for two years, from that day; such members retiring in rotation, two each year, the order of such retirement to be determined by lot among themselves at their first meeting; but every member of the Board shall continue in office until his successor is appointed and shall be eligible for reappointment.

Vacancies.

(2) In case of a vacancy by the death or resignation of a member, or from any cause other than the expiration of the time for which he was appointed, the member appointed in his place shall hold office for the remainder of his term and until his successor is appointed.

Term of
office of
appointed
members.

(3) Save as aforesaid, each of the appointed members shall hold office for three years from the 1st day of February in the year in which he is appointed.

(4) The first appointment of members of the Board shall be made at the first regular meeting of the council held after the final passing of the by-law. First appointments.

(5) Thereafter the appointments shall be made annually at the first meeting of the council held after its organization; and any vacancy arising from any cause other than the expiration of the time for which the member was appointed shall be filled at the first meeting of the council held after the occurrence of the vacancy. Subsequent appointments.

(6) The first members of the Board, within ten days after their appointment, and on such day and hour as the head of the municipal corporation shall appoint, notice of the appointment in writing, signed by him, having been duly sent to the address of each member at least one week before the day and hour named therein, shall meet at the office of the head for the purpose of organization, shall elect one of their number chairman and shall appoint a secretary who may be one of their own number. Organization of Board.

(7) If for any reason appointments are not made at the prescribed time the same shall be made as soon as may be thereafter. When appointments not made at required time.

(8) The chairman and secretary shall hold office at the pleasure of the Board, or for such period as the Board may prescribe. Tenure of office of chairman and secretary.

(9) When the chairman or secretary is absent, or unable to act, the Board may appoint a chairman or secretary *pro tempore*. Chairman and secretary pro tem.

(10) The Board shall meet at least once in every month. Monthly meeting.

(11) The chairman or any two members may summon a special meeting of the Board by giving at least two days' notice in writing to each member, specifying the purpose for which the meeting is called. Calling special meeting.

(12) The office of a member who is absent from the meetings of the Board for three consecutive months, without leave of absence from the Board or without reasons satisfactory to the Board, shall be declared vacant by the Board, and notice thereof shall be given to the council at its next meeting. Vacating office by absence.

(13) No business shall be transacted at any special or general meeting unless at least four members are present. Quorum.

(14) All orders and proceedings of the Board shall be entered in books to be kept for that purpose and shall be signed by the chairman for the time being, and, when so entered and purporting to be so signed, shall be deemed to be original orders and proceedings, and the books may be produced and read in any judicial proceeding as evidence of the orders and proceedings. 2 Geo. V. c. 46, s. 6. Records.

Payment of expenses of members.

7.—(1) The members of the Board shall serve without compensation, but each member shall be entitled to receive his actual disbursements for expenses in visiting or superintending the park or park property where the visit or service is made or rendered by direction of the Board.

Prohibition against interest in contracts.

(2) No member of the Board, or of the municipality, shall have any contract with the Board, or be pecuniarily interested, directly or indirectly, in any contract or work relating to the park or park property. 2 Geo. V. c. 46, s. 7.

Assistance.

8. The Board may employ all necessary clerks, agents and servants, and may prescribe their duties and compensation. 2 Geo. V. c. 46, s. 8.

Custody and inspection of records.

9. The Board shall keep in its office all books, maps, plans, papers and documents used in and pertaining to the business of the Board, and the same shall be open to the examination of the members of the council, and of any other person appointed for that purpose by the council. 2 Geo. V. c. 46, s. 9.

Accounts.

10. The Board shall keep accounts of its receipts, payments, credits, and liabilities; and the same shall be audited by the auditors of the municipal corporation in like manner as other accounts of the municipal corporation, and shall thereafter be laid before the council by the Board. 2 Geo. V. c. 46, s. 10.

Power to make by-laws, etc.

11.—(1) The Board may pass by-laws for the use, regulation, protection and government of the parks, avenues, boulevards and drives, the approaches thereto, and streets connecting the same, not inconsistent with the provisions of this Act or of any law of Ontario.

Consent of Board necessary for exercise of certain powers. Rev. Stat. c. 185.

(2) The powers conferred upon municipal councils by *The Ontario Railway Act*, so far as relates to any streets or approaches under the control of the Board, shall not be exercised without the consent of the Board, and no street railway or other railway shall enter upon or pass through the park.

Licensing of cabs and vehicles and sale of refreshments.

(3) The Board shall have power to license cabs and other vehicles for use in a park; and to let from year to year, or for any time not exceeding ten years, the right to sell refreshments, other than spirituous, fermented or intoxicating liquors, within the park under such regulations as the Board shall prescribe.

Penalties.

(4) The Board shall have power in and by their by-laws to attach penalties for the infraction thereof, and such by-laws may be enforced and the penalties thereunder recovered in like manner as by-laws of municipal councils, and the penalties thereunder may be enforced and recovered.

(5) The by-laws shall be sufficiently authenticated by being signed by the chairman of the Board, and a copy of any by-law, written or printed, and certified to be a true copy by any member of the Board, shall be receivable as evidence without proof of any such signature. 2 Geo. V. c. 46, s. 11.

By-laws,
authentic-
ation of.

12. Real and personal property may be devised, bequeathed, granted, conveyed, or given to the municipal corporation for the establishment or formation of a park, or for the purpose of the improvement or ornamentation of any park of the municipality, and of the avenues, boulevards and drives and approaches thereto, and of the streets connecting therewith; and for the establishment and maintenance on park property of museums, zoological or other gardens, natural history collections, observatories, monuments, or works of art, upon such trusts and conditions as may be prescribed by the donor. 2 Geo. V. c. 46, s. 12.

Power of
municipality
to acquire
property for
park purposes.

13.—(1) The Board may acquire by purchase, lease or otherwise the land, rights and privileges required for park purposes under this Act.

Power of the
Board to
acquire land.

(2) Land so acquired, together with that, the general management, regulation and control of which is vested in the Board under the provisions of section 4, exclusive of land acquired by devise or gift, shall not together exceed in the case of cities having a population of not less than 100,000 2,000 acres, and in the case of other cities or of counties 1,000 acres, and in the case of towns, villages or townships 500 acres.

Area allow-
able.

(3) The conveyance of all land, rights and privileges so acquired by purchase or lease shall be taken to the municipal corporation.

Grantee.

(4) The Board shall have power to let any land not immediately required for park purposes.

Power to
lease lands
not required.

(5) If it has more land than is required for park purposes the Board may sell or otherwise dispose of the land not required in such manner and upon such terms as may be deemed most advantageous.

Power to
sell lands
not required.

(6) Where a park has been purchased or has been acquired by the Board or by the corporation of the municipality, otherwise than by gift or devise, or by dedication to the public by the owner of the land, freely, or at a nominal price or rental, the Board may set apart a sufficient part thereof for athletic purposes or for the purposes of sport, exhibitions or other lawful amusements or entertainments, and may lease the same for such purposes for such times and on such terms as the Board may see fit; but the powers conferred by this subsection shall not be exercisable with respect to any park unless and until the Board has applied for and

Lands for
athletic, etc.,
purposes.

received the approval of the Ontario Railway and Municipal Board. 2 Geo. V. c. 46, s. 13.

Municipality may empower Board to manage any corporation and.

14.—(1) The council of the municipal corporation may by by-law provide that any land acquired by the corporation and not immediately required for any other purpose shall be under the management and control of the Board, and the Board may set apart such land or any part thereof for athletic purposes or for the purposes of sport exhibitions or other lawful amusements or entertainments, and may lease the same for such purposes for such times and on such terms as the Board may see fit.

Council may repeal by-law.

(2) The council may repeal any by-law passed under subsection 1, and the municipal corporation may thereafter sell or otherwise dispose of the land or use the same for any lawful purpose of the corporation. 3-4 Geo. V. c. 18, s. 39.

Power to enter on lands and appropriate streams, etc.

15. The Board, its engineers, surveyors, servants and workmen may enter upon the land of any person in the municipality, or, in the case of a city within ten miles, and in the case of a town within five miles thereof, and may survey, set out, and ascertain such parts thereof as are required for parks, avenues, boulevards and drives and approaches thereto, or for any other purposes of the Board, including the supply of water for artificial lakes, fountains, and other park purposes; and, with the consent of all parties interested capable of consenting, may divert and appropriate any river, ponds of water, springs or streams of water therein which the engineer, surveyor or other person authorized by the Board may deem suitable for such purposes; and the Board may contract with the owner or occupier of the such land, and with those having a right or interest in such water, for the purchase or renting thereof or of any part thereof, or of any privilege which may be required for the purposes of the Board; but the Board shall not interfere with the waterworks or water supply of any municipal corporation or of any waterworks company. 2 Geo. V. c. 46, s. 14.

No interference with water-works.

Arbitration.

16. In case of any disagreement between the Board and the owner or occupier of, or any other person interested in such land, or any person having an interest in such water, or in the natural flow thereof, or in any such privilege respecting the amount of purchase money or yearly rental thereof, or as to the damages which the expropriation thereof by the Board will cause, or otherwise, the matter in question shall be determined by arbitration under *The Municipal Act*, and as hereinafter provided. 2 Geo. V. c. 46, s. 15.

Rev. Stat. c. 192.

Application of Rev. Stat. c. 192, ss. 321-347.

17. Sections 321 to 347 of *The Municipal Act* shall be read as part of this Act, and shall apply to the Board as

if the Board were named therein instead of the corporation or municipal council. 2 Geo. V. c. 46, s. 16.

18.—(1) The Board shall, in the month of February in ^{Board to} every year, prepare an estimate of the sums required during ^{make yearly} the ensuing financial year, for: ^{estimates.}

(a) The interest on money borrowed;

(b) The amount of the sinking fund;

(c) The expense of maintaining, improving, and managing the parks, boulevards, avenues and streets under its control; and

(d) The interest and instalments of purchase money for the purchase of small squares or parks.

(2) The Board shall report its estimate to the council not ^{When esti-} later than the 15th day of February in each year. ^{mate to be}

(3) The council shall, in addition to all other rates and ^{Special rate} assessments for municipal purposes, levy and assess in every ^{for Park} year a special annual rate, sufficient to furnish the amount ^{purposes.} required for the year, but not exceeding one-half mill in the dollar upon the assessed value of all rateable real and personal property. Such rate shall be called "The Park Fund Rate," and shall be deemed to be included in the limit of two cents on the dollar authorized by *The Municipal Act*.

(4) Subject as hereinafter provided the council may also, ^{Power to} on the requisition of the Board, raise by a special issue of ^{issue debentures.} debentures, to be called "Park Fund Debentures," the sums required for the purpose of purchasing the land and privileges which are reported by the Board to be necessary for park purposes, and for making permanent improvements upon any land theretofore acquired by the Board for park purposes.

(5) If at least one-half of the cost of establishing a park ^{Issuing of} is contributed by private subscription or otherwise the council ^{debentures} shall, at the request of the Board of Park Commissioners, ^{for half} issue debentures for the remaining one-half, but only when ^{cost of park} the annual sum required to meet the annual interest and ^{when remain-} sinking fund can be provided for without exceeding the ^{der con-} limit of one-half mill in the dollar provided for in subsection 3. ^{tributed.}

(6) It shall not be necessary to submit to the electors a ^{By-law,} by-law authorizing the issue of debentures in case the annual ^{when not} sum required to meet the annual interest and sinking fund ^{necessary to} does not, with a reasonable allowance for annual expenses of ^{submit to} managing, improving and maintaining the parks and other ^{electors.} works under the control of the Board, exceed the limit of half a mill in the dollar, any provisions in *The Municipal* ^{Rev. Stat.} ^{c. 192.}

Act, or any special Act, relating to the municipality, to the contrary notwithstanding.

Currency of debentures.

(7) The debentures shall be payable within forty years at furthest from the date of their issue.

To constitute lien.

(8) Debentures issued under the authority of this Act, shall form a lien and charge upon all land which is by this Act declared to be subject to the control and management of the Board.

Sale free from lien; application of proceeds.

(9) In case of a sale the Board may sell free from the lien, but the purchase money shall be applied to the payment of park debentures or to the purchase of other land for park purposes.

Annual rate for retirement of debentures.

(10) During the currency of the debentures the council shall withhold and retain out of and as a first charge on the annual rate the amount required to meet the annual interest of the debentures, and the annual sinking fund mentioned in subsection 3, to be provided for the retirement thereof as the debentures become due.

Provisions of Municipal Act.

(11) Except as in this Act otherwise expressly provided, the provisions of *The Municipal Act*, as to money by-laws and the debentures to be issued thereunder, shall apply to by-laws passed by a municipal council under the authority of this Act and the debentures issued thereunder.

Rev. Stat. c. 192.

Money, application of.

(12) All money realized or payable under this Act shall be received by the treasurer of the municipality in the same manner as other money, and shall be by him deposited to the credit of the park fund, and shall be paid out by him on the orders of the Board; save as to the amount required to meet the interest on and provide a sinking fund for debentures. 2 Geo. V. c. 46, s. 17.

Prohibitions and penalties. Hindering, etc., Board or its officers.

19. No person shall

(a) Wilfully or maliciously hinder, or interrupt, or cause or procure to be hindered or interrupted, the Board or its engineers, surveyors, managers, contractors, servants, agents, workmen, or any of them in the exercise of any of the powers and authorities in this Act authorized and contained;

Wasting water.

(b) Wilfully or maliciously let off or discharge any water so that the same runs waste or useless from or out of any reservoir, pond, or lake, or other receptacle for water connected with any such park;

Fouling reservoir.

(c) Cause any dog or other animal to swim in, or throw or deposit any injurious, noisome, or offensive matter into the water in any reservoir, lake, pond, or other receptacle for water connected with any such park, or upon the ice in case such

water is frozen, or in any way foul the water, or commit any unlawful damage or injury to the works, pipes, or water, or encourage the same to be done;

- (d) Lay or cause to be laid any pipe or main to communicate with any pipe or main belonging to the waterworks connected with any such park or parks, or in any way obtain or use any water thereof without the consent of the Board; Diverting water.
- (e) Wash or cleanse any cloth, wool, leather, skin or animals, cause any dog or other animal to swim therein, or place any noisome or offensive thing within the distance of three miles in the case of a city, and one mile in the case of any other municipality, in any river, pond, creek, spring, source or fountain from which the water for the supply of any such park or parks is taken, or convey, cast, throw, or put any filth, dead carcass or other injurious, noisome or offensive thing therein, or within the distance as above mentioned; or cause, permit, or suffer the water of any sink, sewer, or drain to run or be conveyed into the same, or cause any other thing to be done whereby the water therein may be in any way tainted or fouled; Fouling water supply.
- (f) Wilfully or maliciously injure, hurt, deface, tear or destroy any ornamental or shade tree or shrub or plant, or any statue, fountain, vase or fixture of ornament or utility in any street, park avenue, drive, or other public place under the control of the Board, or wilfully, negligently or carelessly suffer or permit any horse or other animal driven by or for him, or any animal belonging to him or in his custody, possession or control, and lawfully on the street or other public place, to break down, destroy or injure any tree, shrub or plant therein; Destroying ornamental trees, etc.
- (g) Wilfully or maliciously injure, hurt, or otherwise molest or disturb any animal, bird, or fish kept in any such park or in the lakes or ponds therewith connected. Injuring animals, etc.

(2) For every contravention of subsection 1, the offender shall incur a penalty not less than \$1 or more than \$20; or such offender may be imprisoned with or without hard labour, in the first instance, for any term not exceeding thirty days; and the person so offending shall be liable to an action at the suit of the Board to make good any damage done by him. 2 Geo. V. c. 46, s. 18. Penalty.

20. The board of commissioners of police of every city and town shall, upon the request of the Board of park manage- Police protection.

ment, detail for service in any of the property under the care or control of the park Board so many of the police force as the board of police commissioners may deem necessary to maintain order and protect property therein; and any police constable may remove therefrom any person violating any of the provisions of this Act, or of any of the rules and regulations established by the Board. 2 Geo. V. c. 46, s. 19.

Powers of
officers
of Board.

21. The watchmen and other officers of the Board, when in the discharge of their duties, shall have all the powers and authority of a constable. 2 Geo. V. c. 46, s. 20.

CHAPTER 204.

An Act respecting the Construction and Operation of Works for supplying Public Utilities by Municipal Corporations and Companies.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Public Utilities Act*. Short title.
3-4 Geo. V. c. 41, s. 1.

2. In Parts III., IV., V. and VI. of this Act, “Public Utility” or “Public Utilities” shall mean water, artificial or natural gas, electrical power or energy, steam and hot water. Interpretation. “Public Utilities.”
3-4 Geo. V. c. 41, s. 2.

PART I.

MUNICIPAL WATERWORKS.

3.—(1) The corporation of a local municipality may, under and subject to the provisions of this Part, acquire, establish, maintain and operate waterworks, and may acquire by purchase or otherwise and may enter on and expropriate land, waters and water privileges and the right to divert any lake, river, pond, spring or stream of water, within or without the municipality, as may be deemed necessary for waterworks purposes, or for protecting the waterworks or preserving the purity of the water supply. Establishment of works and expropriation of land, etc.

(2) No land, water or water privilege which is not situate within or within 15 miles of the municipality shall be expropriated under the powers conferred by subsection 1, and no water shall be taken from any lake or river except within or within 15 miles of the municipality, or in either case so as to interfere with the waterworks of any other municipal corporation or the supply of water therefor then in actual use. Limitation of power to expropriate

(3) The corporation may purchase the waterworks of any person situate within or in the neighbourhood of the municipality and may improve and extend the same, and, for the purpose of any improvement or extension, may exercise all the powers conferred by this Part. Power to acquire existing works
3-4 Geo. V. c. 41, s. 3.

Provision as to paying compensation. Rev. Stat. c. 192.

4. The provisions of Part 15 of *The Municipal Act* shall apply to the exercise by the corporation of any of the powers conferred by this Part. 3-4 Geo. V. c. 41, s. 4.

Construction of necessary works.

5.—(1) The corporation may construct and maintain, in and upon the land acquired by it, such reservoirs, water and other works, plant and machinery as may be requisite for the undertaking, and may, by pipes or otherwise, convey the water thereto and therefrom, in, upon, and through any land lying between the reservoirs and waterworks and the lake, river, pond, spring or stream of water from which the water is procured or between them, or any of them, and the municipality.

Power to enter on intermediate lands.

(2) The corporation and its servants may for such purposes enter and pass upon and over such intermediate land, and may, if necessary, cut and dig up the same and lay pipes through it, and in, upon, through, over, and under the highways, lanes and other public communications within the municipality, or within the distance limited by subsection 2 of section 3, and in, upon, through, over, and under the land of any person within the municipality.

Duty of restoration.

(3) All such highways, lanes, or other public communications, and all land, not being the property of the corporation, shall be restored to their original condition without unnecessary delay.

Power to expropriate.

(4) The corporation may purchase or expropriate, use and occupy such part of such intermediate land as it may deem necessary for the making and maintaining of the works, or for the opening of new streets required for the same, or for the protection of the works, or for preserving the purity of the water supply, or for taking up, removing, altering or repairing the pipes, and for distributing water to the inhabitants of the municipality, or for the uses of the corporation, or of the owners or occupants of the land through or near which the pipes may pass. 3-4 Geo. V. c. 41, s. 5.

Power to lay down pipes, etc

6. For the purpose of distributing the water the corporation may sink and lay down pipes, tanks, reservoirs, and other conveniences, and may from time to time alter their location or construction as the corporation may deem advisable. 3-4 Geo. V. c. 41, s. 6.

Service pipes.

7.—(1) The service pipes shall be laid down from the main pipe to the line of the highway by the corporation, and the corporation shall be responsible for keeping the same in repair.

Laying of, from line of street, to wall of building.

(2) Where a vacant space intervenes between the outer line of a highway and the wall of a building or other place into which the water is to be taken, the corporation may, with the consent of the owner, lay the service pipe across such vacant space to the interior face of the outer wall and charge

the cost thereof to the owner of the premises, or the owner may himself lay the service pipe, if it is done to the satisfaction of the corporation.

(3) The expense incidental to the laying and repairing of service pipes if laid or repaired by the corporation, except the repairing of the service pipes from the main pipe to the line of a highway, or of superintending the laying or repairing of the same, if laid or repaired by any other person, shall be payable by the owner to the corporation on demand, and if not so paid may be collected in the same manner as water-rates. Expenses of laying.

(4) The expense of superintending the laying or repairing of a service pipe shall not exceed one dollar. Expenses of superintending. 3-4 Geo. V. c. 41, s. 7.

8.—(1) The service pipes from the line of a highway to the interior face of the outer wall of the building supplied, together with all branches, couplings, stopcocks and apparatus placed therein by the corporation shall be under its control, and if any damage is done to that portion of the service pipe or its fittings the owner or occupant of the building shall forthwith repair the same to the satisfaction of the corporation, and, in default of his so doing, whether notified or not, the corporation may enter upon the land where the service pipe is and repair the same, and charge the cost thereof to the owner or occupant of the premises, and the same may be collected in the same manner as water rates. Service pipe to be under control of corporation

(2) The stopcock placed by the corporation inside the wall of the building shall not be used by the water taker, except in case of accident, or for the protection of the building or the pipe and to prevent the flooding of the premises. Prohibition as to using stopcock.

(3) Persons supplied with water by the corporation may be required to place only such taps for drawing and shutting off the water as are approved of by the corporation. Approval of taps by corporation. 3-4 Geo. V. c. 41, s. 8.

9. The corporation may regulate the distribution and use of the water in all places where and for all purposes for which it may be required, and fix the prices for the use thereof, and the times of payment, and may erect such number of public hydrants and in such places as it may see fit, and may direct in what manner and for what purposes the same shall be used, and may fix the rate or rent to be paid for the use of the water by hydrants, fireplugs, and public buildings. Regulation of use of water and of rates. 3-4 Geo. V. c. 41, s. 9.

10.—(1) The corporation of every municipality having a system of waterworks shall supply water at all times to all public institutions situate therein and belonging to or maintained by the Province at such rents, rates or prices as may be fixed by by-law of the corporation, but not exceeding those charged to manufacturers. Rates at which water to be supplied to provincial institutions.

Penalty.

(2) For every contravention of subsection 1, the corporation shall incur a penalty not exceeding \$500, recoverable by action at the suit of the Crown. 3-4 Geo. V. c. 41, s. 10.

Non-liability for breakage or stoppage.

11. The corporation shall not be liable for damages caused by the breaking of any service pipe or attachment, or for shutting off of water to repair or to tap mains, if reasonable notice of the intention to shut off the water is given. 3-4 Geo. V. c. 41, s. 11.

Power to supply water outside of municipality.

12. The corporation may supply water upon special terms and for such term of years as may be agreed on to owners or occupants of land beyond the limits of the municipality, and may exercise all other powers necessary for carrying out any agreement for that purpose, and may also make any agreement which may be deemed expedient for the supply of water for any term not exceeding five years to any railway company, or manufactory, or to builders; but where water is to be supplied for any of the purposes mentioned in this section in another municipality, the corporation of which possesses water-works, no pipes for that purpose shall be carried in, upon, through, over or under any highway, lane, or public communication within such other municipality without the consent of the council thereof. 3-4 Geo. V. c. 41, s. 12.

Proviso.

Power to regulate supply and to prohibit wrongful use of water.

13. The corporation may pass by-laws for regulating the time, manner, extent and nature of the supply by the works, the building or persons to which and to whom the water shall be furnished, the price to be paid therefor, and every other matter or thing related to or connected therewith which it may be necessary or proper to regulate, in order to secure to the inhabitants of the municipality a continued and abundant supply of pure and wholesome water, and to prevent the practising of frauds upon the corporation with regard to the water so supplied, and for providing that for a contravention of any such by-law the offender shall incur a penalty not exceeding \$20 or may be imprisoned without the option of a fine for any period not exceeding one month, and the provisions of *The Ontario Summary Convictions Act* shall apply to a prosecution under this section. 3-4 Geo. V. c. 41, s. 13.

Rev. Stat. c. 90.

Prohibitions and penalties.

14. Every person who

- (a) wilfully hinders or interrupts, or causes or procures to be hindered or interrupted the corporation, or any of its officers, contractors, agents, servants or workmen, in the exercise of any of the powers conferred by this Act;
- (b) wilfully lets off or discharges water so that the same runs waste or useless out of the works;
- (c) being a tenant, occupant, or inmate of any house, building or other place supplied with water from

the water-works, lends, sells, or disposes of the water, gives it away, permits it to be taken or carried away, uses or applies it to the use or benefit of another, or to any use and benefit other than his own, increases the supply of water agreed for, or improperly wastes the water;

- (d) without lawful authority wilfully opens or closes any hydrant, or obstructs the free access to any hydrant, stopcock, chamber, pipe, or hydrant-chamber, by placing on it any building material, rubbish, or other obstruction;
- (e) throws or deposits any injurious, noisome or offensive matter into the water or water-works, or upon the ice, if the water is frozen, or in any way fouls the water or commits any wilful damage, or injury to the works, pipes, or water, or encourages the same to be done;
- (f) wilfully alters any meter placed upon any service pipe or connected therewith, within or without any building or other place, so as to lessen or alter the amount of water registered;
- (g) lays or causes to be laid any pipe or main to communicate with any pipe or main of the water-works, or in any way obtains or uses the water without the consent of the corporation; or
- (h) washes or cleanses cloth, wool, leather, skin or animals, or places any noisome or offensive thing, or conveys, casts, throws, or puts any filth, dirt, dead carcase or other noisome or offensive thing in any lake, river, pond, creek, spring, source or fountain, within the distance of one mile in the case of a town or village, or within three miles in the case of a city from the source of supply for such water-works, or causes, permits, or suffers the water of any sink, sewer or drain to run or be conveyed into the same, or causes any other thing to be done whereby the water therein may be in any way tainted or fouled;

shall for every such offence incur a penalty not exceeding \$20 or may be imprisoned, without the option of a fine, for any term not exceeding one month, and the provisions of *The Ontario Summary Convictions Act* shall apply to a prosecution under this section. 3-4 Geo. V. c. 41, s. 14.

Rev. Stat.
c. 90.

15.—(1) For the purpose of assisting in the payment of any debentures issued for water-works purposes, and the interest thereon, the corporation may impose a special tax in each year, during the currency of the debentures, not exceeding four mills in the dollar according to the assessed

Power to levy
special rate.

value thereof, upon the land fronting or abutting upon any highway, lane or other public communication in, through or along which the water-works mains are laid, as well as all other land distant not more than 300 feet therefrom, which enjoys the advantage of the use of the water for the purpose of protection against fire, whether or not the owners or occupants thereof use the water for general purposes.

Power to remit special tax.

(2) The collector of taxes, upon the production by an owner or occupant using the water of the receipt for the payment of the rate or rent chargeable for the use thereof during the year, or such proportion thereof as equals such special tax, shall remit or allow to such owner or occupant the amount so paid as a payment of or on account of such special tax. 3-4 Geo. V. c. 41, s. 15.

Construction of mains, etc., for benefit of individuals.

16. If one or more property owners within a municipality applies to the council for the construction of water mains and other works necessary to connect their properties with the water-works system of the corporation the council may by by-law provide for the extension of the mains and pipes, and for all other works necessary to make such connection, and for permitting the applicants to receive the benefit of such water-works upon such terms as the council may deem just; and the by-law may further provide that the cost of the work shall be charged as an annual special rate upon the land of the applicants, designated in the application, and such rate shall be payable, whether or not the applicants or the owners, for the time being, of the lands continue to use the water. 3-4 Geo. V. c. 41, s. 16.

PART II.

MUNICIPAL PUBLIC UTILITY WORKS OTHER THAN WATERWORKS.

Interpretation.

17. In this Part,

'Public Utility.'

"Public Utility" shall mean artificial and natural gas, electrical power or energy, steam and hot water. 3-4 Geo. V. c. 41, s. 17.

Powers of corporations to produce and supply public utilities.

18.—(1) The corporation of every urban municipality may manufacture, procure, produce and supply for its own use and the use of the inhabitants of the municipality any public utility for any purpose for which the same may be used; and for such purposes may purchase, construct, improve, extend, maintain, and operate any works which may be deemed requisite, and may acquire any patent or other right for the manufacture or production of such public utility, and may also purchase, supply, sell or lease fittings, machines, apparatus, meters, or other things for any of such purposes.

May sell coke, etc.

(2) The corporation may sell and dispose of coke, tar, and every other by-product or residuum obtained in or from its works, and any surplus coal it may have on hand.

(3) The corporation may purchase or rent such land and buildings as may be deemed necessary for the purpose of its undertaking. 3-4 Geo. V. c. 41, s. 18. May rent or purchase lands.

19. The corporation may require by purchase, lease or otherwise, or may expropriate any land in the municipality which may be required for its works or any extension thereof, and the provisions of Part 15 of *The Municipal Act* shall apply to the exercise by the corporation of the power to expropriate and of the power conferred by section 22. 3-4 Geo. V. c. 41, s. 19. Power to expropriate lands for works.
Rev. Stat. c. 192.

20. The corporation, for the purpose of laying down, taking up, examining, and keeping in repair the pipes, wires and rods used for the purpose of its undertaking, may break up, dig, and trench in, upon, and under the highways, lanes, and other public communications, or, with the consent of the owner, in, upon and under any private property; or may, upon poles or otherwise, conduct such wires and rods along, over and across such highways, lanes, and other public communications, or, with the consent of the owner, upon private property. 3-4 Geo. V. c. 41, s. 20. Corporation may break up streets, etc.

21.—(1) The corporation may carry pipes, wires or rods, to any part of any building within the municipality parts of which belong to different owners, or are in possession of different tenants or occupants, passing over the property of any owner, or of any tenant or occupant, to convey the public utility to the part of the building to which it is to be conveyed. Corporation may carry pipes, wires and rods through parts of buildings to supply other parts.

(2) Such pipes, wires or rods shall be carried up and attached to the outside of the building unless consent is obtained to carry the same in the inside. 3-4 Geo. V. c. 41, s. 21. Method

22. The corporation may also break up and uplift all passages common to neighbouring owners, tenants, or occupants, and dig or cut trenches therein, for the purpose of laying down pipes, wires, or rods, or taking up, examining or repairing the same, doing as little damage as may be in the execution of the powers hereby conferred, and restoring such passages to their original condition without unnecessary delay. 3-4 Geo. V. c. 41, s. 22. May also break up passages common to neighbouring proprietors.

23. The corporation may, from time to time and upon such terms as may be deemed advisable, enter into contracts for the supply of a public utility to any person for any period not exceeding ten years. 3-4 Geo. V. c. 41, s. 23. Contracts for supply of public utility for ten years.

24. A corporation possessing or intending to construct works under this Act may, under the authority of a by-law of an adjoining local municipality, exercise the like powers within the adjoining municipality as it may exercise within Power to carry works into adjoining municipalities.

its own municipality upon such terms and conditions as may be agreed upon. 3-4 Geo. V. c. 41, s. 24.

PART III.

ALL MUNICIPAL PUBLIC UTILITIES.

Application of Part.

25. This Part shall apply to all municipal corporations owning or operating public utilities. 3-4 Geo. V. c. 41, s. 25.

Power to make by-laws for maintenance and management of works.

26.—(1) The council may pass by-laws for the maintenance and management of the works and the conduct of the officers and others employed in connection with them, and for the collection of the rates or charges for supplying the public utility, and for the rent of fittings, machines, apparatus, meters or other things leased to consumers, and for fixing such rates, charges and rents, and the times and places when and where the same shall be payable; and for allowing for prepayment or punctual payment such discount as may be deemed expedient.

Discretion of corporation as to rates to be charged.

(2) In fixing the rents, rates or prices to be paid for the supply of a public utility the corporation may use its discretion as to the rents, rates or prices to be charged to the various classes of consumers and also as to the rents, rates or prices at which a public utility shall be supplied for the different purposes for which it may be supplied or required.

Power to shut off supply.

(3) In default of payment the corporation may shut off the supply but the rents or rates in default shall, nevertheless, be recoverable. 3-4 Geo. V. c. 41, s. 26.

Rates to be lien on lot or building.

27. The sum payable by the owner or occupant of any building or lot for the public utility supplied to him there, or for the use thereof, and all rents, rates, costs and charges by this Act to be collected in the same manner as rents or rates for the supply of a public utility, shall be a lien and charge on the building or lot and may be levied and collected in like manner as municipal rates and taxes are recoverable. 3-4 Geo. V. c. 41, s. 27.

Protection and powers of officers.

28. The officers of the corporation, when acting in the discharge of their duties under this Act, shall *ex-officio* be constables. 3-4 Geo. V. c. 41, s. 28.

Limitation of actions.

29. No action shall be brought against any person for any thing done in pursuance of this Act, but within six months next after the act committed, or in case there is a continuation of damage, within one year after the original cause of action arose. 3-4 Geo. V. c. 41, s. 29.

Property exempt from execution.

30. Materials procured under contract with the corporation, and upon which the corporation has made advances in

accordance with such contract, shall be exempt from execution against the person who supplied or contracted to supply such materials. 3-4 Geo. V. c. 41, s. 30.

31. The public utility works, and the land acquired for the purpose thereof and the property appertaining thereto, shall be specially charged with the repayment of any sum borrowed by the corporation for the purposes thereof, and for any debentures issued therefor, and the holders of such debentures shall have a preferential charge on such works, land and property for securing the payment of the debentures and the interest thereon. 3-4 Geo. V. c. 41, s. 31.

Money borrowed to be a charge on works.

32. The revenues arising from supplying any public utility or from the property connected with any public utility work, after providing for the expenses of the maintenance of the works, shall, subject to section 31, form part of the general funds of the corporation. 3-4 Geo. V. c. 41, s. 32.

Application of revenue.

33.—(1) The corporation may sell, lease or otherwise dispose of any property which is no longer required for the purpose of the undertaking, and any property so sold shall be free from any charge or lien on account of any debentures issued by the corporation, but the proceeds of the sale shall be added to and form part of the fund for the redemption and payment of any debentures constituting a charge thereon, or if there are no such debentures the proceeds shall form part of the general funds of the corporation.

Power to sell any property when no longer required.

(2) If credit is given for any part of the purchase money of real property the corporation may take security by way of mortgage to secure the same, and every such mortgage and the proceeds thereof shall stand as security for any debentures constituting a charge on the real property at the time of the sale. 3-4 Geo. V. c. 41, s. 33.

Power to take security.

PUBLIC UTILITY COMMISSION.

34.—(1) The council of a municipal corporation which owns or operates works for the production, manufacture or supply of any public utility, or is about to establish such works, may, by by-law passed with the assent of the municipal electors, provide for entrusting the construction of the works and the control and management of the same to a commission to be called "The Public Utilities Commission of the (*naming the municipality*)" or to a commission established under this Part.

Formation of Public Utility Commission for management of works.

(2) A Commission established under *The Municipal Water-works Act*, or *The Municipal Light and Heat Act*, or under a special Act for the construction or the control and management of works for the manufacture, production or supply of any public utility shall, for the purposes of this section, be

R.S.O. 1897 cc. 234, 235.

deemed to be a Commission established under this Part and the provisions of this Part shall apply to it.

One Commission for several public utilities.

(3) Where a commission has been established under this Part as to any public utility and the corporation desires to entrust the control and management of any other public utility works to a commission, subject to subsection 5, such control and management shall be entrusted to the commission so established, or if there is more than one commission so established to one of them, or the by-law may provide for placing under the control and management of one commission all public utility works owned by the corporation.

Name.

(4) Where the construction of any other public utility works and the control and management of them is entrusted to any of the commissions mentioned in subsection 2, such commission thereafter shall be called "The Public Utility Commission of the (*naming the municipality*)"

Special provisions as to Hydro-Electric Commission.

(5) Where the corporation of a city or town has entered into a contract with The Hydro-Electric Power Commission of Ontario for the supply of electrical power or energy a commission shall be established under the provisions of this Part for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of such electrical power or energy and for the purposes of this subsection it shall not be necessary that the by-law receive the assent of the electors; or such control and management shall be entrusted to an existing Public Utilities Commission, and, where the commission is not entrusted with the control and management of any other public utility, it shall be called "The Hydro-Electric Commission of the (*naming the municipality*)."

Special Act not affected.

(6) Subsection 5 shall be subject to the provisions of any special Act providing for the control and management of such works.

Certain by-laws not to be repealed.

(7) A by-law of the council, for the purposes mentioned in subsection 4, shall not be repealed without the consent of "The Hydro-Electric Power Commission of Ontario."

Provision for management of sewerage system. Rev. Stat. c. 192.

(8) If no commission has been established under this Part to which the control and management of a sewerage system, to which paragraph 11 of section 406 of *The Municipal Act* applies, may be entrusted a commission may be established, under this Part, for the control and management of such sewerage system, and the provisions of this Part shall apply to it. 3-4 Geo. V. c. 41, s. 34.

Powers of Commission.

35.—(1) Subject to subsection 3, upon the election of the commissioners as hereinafter provided, all the powers, rights, authorities, and privileges which are by this Act conferred on the corporation shall, while such by-law remains in force, be exercised by the commission and not by the council of the corporation.

(2) The officers and employees of the corporation shall be continued until removed by the commission unless their engagement sooner terminates. Officers of corporation to hold office.

(3) Nothing contained in this section shall divest the council of its authority with reference to providing the money required for such works, and the treasurer of the municipality shall, upon the certificate of the commission, pay out any money so provided. 3-4 Geo. V. c. 41, s. 35. Council to provide money required for works.

36.—(1) A commission established under this Part shall be a body corporate and shall consist of three or five members as may be provided by the by-law, of whom the head of the council shall *ex-officio* be one and the others shall be elected at the same time and place and in the same manner as the head of the council, and subject to subsection 2 the elected members shall hold office for two years and until their successors are elected and the new commission is organized. Number of Commissioners.

(2) One-half of the first elected members shall hold office for two years and the other one-half for one year, and shall continue in office until their successors are elected and the new commission is organized. Term of office.

(3) At the first meeting of the commission after the first election the members who are to hold office for two years shall be chosen by lot. Term of office to be determined by lot.

(4) Except where otherwise expressly provided the provisions of Parts 2, 3 and 4 of *The Municipal Act* which are applicable to members of the council of a local municipality shall apply *mutatis mutandis* to the commissioners to be elected under the provisions of this Part. 3-4 Geo. V. c. 41, s. 36. Provisions as to mode of election of, etc. Rev. Stat. c. 192.

37.—(1) Where a vacancy in the commission occurs from any cause the council shall immediately appoint a successor who shall hold office during the remainder of the term for which his predecessor was elected. Filling of vacancies.

(2) A majority of the commissioners shall constitute a quorum of the commission. 3-4 Geo. V. c. 41, s. 37. Quorum.

38. The salary, if any, of the commissioners shall from time to time be fixed by the council and no member of the council, except the head thereof, shall at the same time be a member of the commission. 3-4 Geo. V. c. 41, s. 38. Salary of Commissioners.

39.—(1) The council may, by by-law passed with the assent of the municipal electors, repeal any by-law passed under section 34. Repeal of by-law.

(2) Where a by-law is repealed the council shall apportion the current year's salary of the commissioners, and any officer or employee of the commission shall be continued until removed by the council unless his engagement sooner terminates. 3-4 Geo. V. c. 41, s. 39. Apportionment of salaries.

Book of
accounts.

40.—(1) Separate books and accounts of the revenues derived from every public utility under its management shall be kept by the commission, and such books and accounts shall also be kept separate from the books and accounts relating to the other property, funds, or assets connected with such public utility, and such books and accounts shall be open to inspection by any person appointed for that purpose by the council.

Regulation of
system of
book-keeping.
Rev. Stat.
c. 186.

(2) Subsection 1 shall be subject to section 58 of *The Ontario Railway and Municipal Board Act*. 3-4 Geo. V. c. 41, s. 40.

Returns to
council.

41.—(1) The commission shall, on or before the fifteenth day of January in each year, or upon such other day as the council may direct, cause a return to be made to the council containing a statement of the affairs of each public utility work showing

- (a) the amount of the rents, issues, and profits, arising therefrom and the number of persons supplied with each of the public utilities during the previous calendar year;
- (b) the extent and value of the property connected with each public utility work;
- (c) the amount of all outstanding debentures and the interest thereon, due and unpaid, and the state of the sinking fund;
- (d) the expenses of management, and all other expenses;
- (e) the salaries of officers and servants;
- (f) the cost of repairs, improvements and alterations;
- (g) the price paid for any land acquired for the purpose of such public utility work and such a statement of revenue and expenditure as will at all times afford full and complete information of the state of its affairs.

Information
for council.

(2) The commission shall also furnish such information as from time to time may be required by the council.

Audit of
accounts.

(3) The accounts of the commission shall be audited by the auditors of the corporation, and the commission and its officers shall furnish to the auditors such information and assistance as may be in their power to enable the audit to be made. 3-4 Geo. V. c. 41, s. 41.

Records of
proceedings.

42. A book wherein shall be recorded all the proceedings of the commission shall be kept and shall be open to inspection by any person appointed for that purpose by the council. 3-4 Geo. V. c. 41, s. 42.

43. The revenues, after deducting disbursements, shall, Revenues to be paid to municipal treasurer. quarterly or oftener if the council so directs, be paid over to the treasurer of the municipality, and shall be by him placed to the credit of the account of the public utility work, and if not required for the purpose of the work shall form part of the general funds of the corporation. 3-4 Geo. V. c. 41, s. 43.

PART IV.

ALL MUNICIPAL AND COMPANY PUBLIC UTILITIES.

44. This Part shall apply to all municipal or other cor- Application of Part. porations owning or operating public utilities. 3-4 Geo. V. c. 41, s. 44.

45.—(1) Any person authorized by the corporation for Inspection of premises. that purpose shall have free access, at all reasonable times, and upon reasonable notice given and request made, to all parts of every building or other premises to which any public utility is supplied for the purpose of inspecting or repairing, or of altering or disconnecting any service pipe, wire or rod, within or without the building, or for placing meters upon any service pipe or connection within or without the building as he may deem expedient and for that purpose or for the purpose of protecting or regulating the use of such meter, may set it or alter the position of it, or of any pipe, wire, rod, connection or tap, and may alter or disconnect any service pipe.

(2) The corporation may fix the price to be paid for the Prices for use of meters, etc. use of such meter, and the times when and the manner in which the same shall be payable, and may also recover the expense of such alterations; and such price, and the expense of such alterations, may be collected in the same manner as rents or rates for the supply of a public utility.

(3) Where a consumer discontinues the use of the public Removal of fittings from premises of consumers utility, or the corporation lawfully refuses to continue any longer to supply it, the officers and servants of the corporation may, at all reasonable times, enter the premises in or upon which such consumer was supplied with the public utility for the purpose of removing therefrom any fittings, machines, apparatus, meters, pipes or other things being the property of the corporation in or upon such premises, and may remove the same therefrom, doing no unnecessary damage. 3-4 Geo. V. c. 41, s. 45.

46. No property of the corporation used for or in connection with the supply of any public utility shall be liable to be seized for rent due to the landlord of any land or building whereon or wherein the same may be or under execution against the owner or occupant of the land or building. Property of corporation exempt from distress. 3-4 Geo. V. c. 41, s. 46.

Liability of
persons doing
damage.

47. Every person who, by act, default, neglect or omission occasions any loss, damage or injury to any public utility works or to any plant, machinery, fitting or appurtenances thereof shall be liable to the corporation therefor. 3-4 Geo. V. c. 41, s. 47.

Penalty for
wilful damage
of meters,
lamps, etc.

48. Every person who wilfully or maliciously damages or causes or knowingly suffers to be damaged any meter, lamp, lustre, service pipe, conduit, wire, rod, or fitting belonging to the corporation, or wilfully impairs or knowingly suffers the same to be altered or impaired, so that the meter indicates less than the actual amount of the public utility which passes through it, shall incur a penalty, to the use of the corporation, for every such offence, of not less than \$4 or more than \$20, and shall also be liable for the expenses of repairing or replacing such meter, lamp, lustre, service pipe, conduit, wire, rod or fitting and double the value of the surplus public utility so consumed, all of which, including the penalty, shall be recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 41, s. 48.

Rev. Stat.
c. 90.

Penalty for
injuring public
utility works.

49. Every person who wilfully extinguishes any public lamp or light, or wilfully removes, destroys, damages, fraudulently alters or in any way injures any pipe, conduit, wire, rod, pedestal, post, plug, lamp or other apparatus or thing belonging to the corporation shall incur a penalty, to the use of the corporation, of not less than \$4 or more than \$20, and shall also be liable for all damages occasioned thereby, all of which shall be recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 41, s. 49.

Corporation
constructing
works to
supply build-
ings on line of
supply, on
request.

50. Where there is a sufficient supply of the public utility the corporation shall supply all buildings within the municipality situate upon land lying along the line of any supply pipe, wire or rod, upon the request in writing of the owner, occupant or other person in charge of any such building. 3-4 Geo. V. c. 41, s. 50.

Prohibition as
to laying main
pipes and con-
duits within 6
feet of exist-
ing ones.

51.—(1) Main pipes or conduits for carrying or conveying any public utility underground in any highway, lane or public communication shall not be laid down therein by a municipal corporation or company within the distance of 6 feet of the main pipes or conduits for carrying or conveying any public utility underground of any person without the consent of such person, or the authority of "The Ontario Railway and Municipal Board."

Power of
Municipal
Board as to
granting leave
to lay pipes,
etc., within
less than 6 feet.

(2) The Board, upon the application of the corporation or company, and after notice to such person and hearing any objections which may be made, may authorize the main pipes or conduits to be laid down within such distance less than six feet as may be deemed proper, and all main pipes and conduits laid down in accordance with such authority shall

be deemed to have been laid down under statutory authority and to be lawfully laid down, and may be maintained and operated by the corporation or company without its incurring any liability to such person in respect of the construction, maintenance or operation of them, except that provided for by subsection 5, any general or special statute or law to the contrary notwithstanding.

(3) Such authority may be granted subject to such conditions as the Board may deem necessary to prevent injury to the main pipes or conduits of such person, or to such person, his servants and workmen, in maintaining, repairing and operating them. Conditions.

(4) The powers conferred by this section may be exercised from time to time as occasion may require. Exercise of powers.

(5) If any damage or injury is done to the main pipes or conduits of such person, or is occasioned in the maintenance of them, by reason of the main pipes or conduits of the corporation or company being laid down at a less distance than six feet from the main pipes or conduits of such person, no action shall lie in respect thereof, but the corporation or company doing such damage or injury shall make due compensation therefor, and any question or dispute as to such damage or injury having been so done or occasioned, or as to the amount of compensation, shall be determined by arbitration, and the provisions of *The Municipal Act* shall apply *mutatis mutandis*. Compensation for damages.

(6) The person claiming damages shall, within one month after the expiration of any calendar year in which he claims that any such damage or injury has been so done or occasioned, give notice in writing to the corporation of his claim and the particulars thereof, and upon failure to do so the right to compensation in respect of the damage or injury done or occasioned during that calendar year shall be forever barred. 3-4 Geo. V. c. 41, s. 51. Rev. Stat. c. 192.

52. Except where otherwise expressly provided all penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*. Claim for damages.

3-4 Geo. V. c. 41, s. 52. Recovery of penalties. Rev. Stat. c. 90.

PART V.

ALL COMPANY PUBLIC UTILITIES.

53. This Part shall apply to every company heretofore or hereafter incorporated for the purpose of supplying any public utility. 3-4 Geo. V. c. 41, s. 53. Application of Part.

Conditions precedent to company carrying on business or expropriating land.
Rev. Stat. c. 197.

54.—(1) The company shall not exercise any of its powers within a municipality unless and until a by-law of the council of the municipality has been passed with the assent of the municipal electors where such assent is required by *The Municipal Franchises Act* authorizing the company to exercise the same and the company when so authorized may exercise any of the powers of expropriation conferred on a municipal corporation by Parts 1 and 2, if the power to expropriate is conferred on it by the letters patent incorporating the company or by supplementary letters patent.

Power to carry pipes through land within 10 miles of municipality.

(2) Subject to subsection 1 a company may conduct any of its pipes or carry any of its works through the land of any person lying within ten miles of the municipality for supplying which the company was incorporated.

Rev. Stat. c. 185.

(3) The powers of expropriation conferred on a company shall be exercised under and in accordance with the provisions of *The Ontario Railway Act*. 3-4 Geo. V. c. 41, s. 54.

Power to take security from consumer.

55. A company, before supplying any public utility to any building or premises or as a condition of its continuing to supply the same, may require any consumer to give reasonable security for the payment of the proper charges of the company therefor, or for carrying the public utility into such building. 3-4 Geo. V. c. 41, s. 55.

Remedy for price of public utility furnished.

56. If any person supplied with any public utility neglects to pay the rent, rate or charge due to the company at any of the times fixed for the payment thereof, the company, or any person acting under its authority, on giving forty-eight hours' previous notice, may stop the supply from entering the premises of such person by cutting off the service pipes, or by such other means as the company or its officers may deem proper, and the company may recover the rent or charge due up to that time, together with the expenses of cutting off the supply, notwithstanding any contract to furnish it for a longer time. 3-4 Geo. V. c. 41, s. 56.

Charges by exporting gas companies.

57. Where a natural gas company or natural gas transmitting company produces or transmits gas for export the price or charge at which the same shall be supplied shall be subject to regulation by the Lieutenant-Governor in Council. 3-4 Geo. V. c. 41, s. 57.

General powers.

58. The provisions of sections 6, 7 and 8, except as to the manner of recovering charges and expenses, sections 10, 11 and 12 as to making agreements for a supply of water to a railway company, manufactory or builder, and sections 14, 17, 18, 20, 21, 22 and 23 shall, *mutatis mutandis*, apply to a company. 3-4 Geo. V. c. 41, s. 58.

PART VI.

ACQUIRING WORKS FROM COMPANIES.

59.—(1) Where a by-law of the council of an urban municipality is passed with the assent of the electors entitled to vote on money by-laws declaring that it is expedient to acquire the works of a company, incorporated on or after the 10th day of March, 1882, for the purpose of supplying within such municipality any public utility the corporation may take possession of the works of the company and all property used in connection therewith for the purposes of supplying such public utility, whether the works and property, or any of them, are within or without the municipality, and shall pay therefor at a valuation to be determined by arbitration under *The Municipal Act*, subject to the provisions hereinafter mentioned.

Municipalities may acquire works of company on payment therefor.

Rev. Stat. c. 192.

(2) The arbitrators, in determining the amount to be paid for such works and property, shall first determine the actual value thereof, having regard to what the same would cost if the works should be then constructed, or the property then bought, making due allowance for deterioration, wear and tear, and all other proper allowances, and shall increase the amount so ascertained by ten per centum thereof, which increased sum the arbitrators shall award as the amount to be paid by the corporation to the company, with interest from the date of their award.

Mode of computing value.

(3) The amount shall be paid within six months from the date of the award, and the council shall take all requisite steps for providing the amount; and it shall not be necessary that a by-law passed for borrowing the amount shall receive the assent of the electors.

Time within which amount to be paid.

(4) The council may, without submitting the question to the vote of the electors, take the proceedings authorized by subsection 1 for determining the amount to be paid for such works and property, upon notice to the company that the corporation intends to acquire the works and property by arbitration, under the provisions of this Act; but in such case any by-law for raising money to pay therefor shall require the assent of the electors and until the by-law is finally passed, the corporation shall not, unless with the consent of the company, take possession of the works or property; and in the event of the by-law not being passed the corporation shall indemnify the company for all costs it has been put to in and about the arbitration.

Council may take proceedings to determine value without first obtaining assent of electors.

(5) The council and the company may agree as to the amount to be paid for the works and property or any of them.

Amount may be settled by agreement.

(6) If the amount awarded, or agreed to be paid, to the company is not paid within six months after the time at which it is payable the company may resume possession of

If amount not paid, rights of company to revive.

its works and property, and all its rights in respect thereof shall thereupon revive.

Existing companies may consent to be bound by above provisions.

(7) Any company incorporated before the 10th day of March, 1882, may, by by-law, declare that such company consents to be bound by the provisions of this section, and upon the passing of the by-law this section shall apply to the company.

Limitations as to by-laws.

(8) A by-law may be passed under subsection 1, with respect to a company incorporated before the 10th day of March, 1882, if an agreement has been made between the company and the corporation under which the corporation has the right at any time, or at any time after a date thereby fixed, not being later than ten years from the date of the agreement, to acquire the works of the company and all property used in connection therewith for such purposes, at a valuation to be determined by arbitration under *The Municipal Act*.

Rev. Stat. c. 192.

Certain rights not affected.

(9) Nothing in this section shall affect the right of a municipal corporation to acquire the works and property of any public utility company by agreement with the company, or any right of acquisition which has been or may be secured by any such corporation independently of the provisions of this section. 3-4 Geo. V. c. 41, s. 59.

TAKING STOCK, ETC., IN COMPANIES.

Power to subscribe for stock, etc.

60.—(1) Subject to the provisions of *The Municipal Act* the corporation of any municipality which has power to construct such works, and in which the public utility works of a company are situate, may subscribe for shares or take stock in the company or may loan money to it on mortgage or otherwise or guarantee payment of money borrowed by it.

When the head to be a director.

(2) The head of a municipality, the corporation of which holds stock in any such company to the extent of one-tenth or more of the whole of the capital stock, shall be *ex officio* a director of the company so long as the corporation continues to hold stock to that extent. 3-4 Geo. V. c. 41, s. 60.

PART VII.

COMMISSION FOR RAILWAYS AND TELEPHONES.

Commission to construct and manage railways and telephones.

61. The council of a municipal corporation, which owns or operates, or is about to establish any of the following works:—

(a) A railway, an electric railway, a street railway, or an incline railway;

(b) Telephone systems, or lines;

may, by by-law passed with the assent of the municipal electors, provide for entrusting the construction of the work and the control and management of it to a commission, to be called The Public Service Commission of the (*naming the municipality*) or to an existing Public Utilities Commission established under the authority of this Act; and if such a by-law is passed the provisions of sections 34 to 43 shall apply *mutatis mutandis* to the commission to which the construction, control and management of the work are entrusted and to the work. 3-4 Geo. V. c. 41, s. 61.

PART VIII.

MISCELLANEOUS.

62. Nothing in this Act shall affect the provisions of section 38 or section 39 of *The Power Commission Act*, and they shall continue to apply to the cases to which they now apply. 3-4 Geo. V. c. 41, s. 62.

Certain provisions of Rev. Stat. c. 39 not affected.

CHAPTER 205.

An Act respecting Contracts for the Supply of
Electrical Power to Municipal Corporations.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Municipal Electric Contracts Act*. 3-4 Geo. V. c. 42, s. 1.

Consent of
electors
required for
contracts or
franchises
for supply,
etc., of elec-
trical power.

Rev. Stat.
c. 192.

2. No municipal corporation shall enter into or renew any contract for the supply of electrical power or energy to the corporation or to the inhabitants thereof, or grant any franchise or any renewal of a franchise for the supply and distribution of electrical power or energy within the municipality, until a by-law setting forth the terms and conditions of such contract or franchise has been first submitted to, and has received the assent of, the municipal electors in the manner provided by *The Municipal Act*. 3-4 Geo. V. c. 42, s. 2.

3. HIGHWAYS.

CHAPTER 206.

An Act to regulate Travelling on Public Highways and Bridges.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Highway Travel Act*. Short title.
2 Geo. V. c. 47, s. 1.

2. In this Act "Vehicle" shall include a vehicle drawn by one or more horses, or other animals, a traction engine and a motor vehicle. Interpretation, meeting others. 2 Geo. V. c. 47, s. 2.

HIGHWAYS.

3.—(1) Where a person travelling, or being upon a highway in charge of a vehicle, meets another vehicle he shall turn out to the right from the centre of the road allowing to the vehicle so met one-half of the road. Vehicles meeting others.

(2) Where a person travelling, or being upon a highway in charge of a vehicle, meets a person travelling upon a bicycle or tricycle he shall, where practicable, allow him sufficient room on the travelled portion of the highway to pass to the right. Vehicles meeting bicycles, etc. 2 Geo. V. c. 47, s. 3.

4.—(1) Where a person travelling, or being upon a highway in charge of a vehicle, or on horseback, is overtaken by any vehicle or horseman travelling at greater speed, the person so overtaken shall quietly turn out to the right and allow such vehicle or horseman to pass. Vehicles or horsemen overtaken by others.

(2) Any person so overtaking another vehicle or horseman shall turn out to the left so far as may be necessary to avoid a collision with the vehicle or horseman so overtaken, and the person so overtaken shall not be required to leave more than one-half of the road free. Vehicles or horsemen overtaking others.

(3) Where a person travelling or being upon a highway on a bicycle or tricycle, is overtaken by a vehicle or horseman travelling at a greater speed, the person so overtaken shall quietly turn out to the right and allow such vehicle or horse- Bicycles and tricycles overtaken by vehicles or horsemen.

man to pass, and the person so overtaking the bicycle or tricycle shall turn out to the left so far as may be necessary to avoid a collision.

Bicycle
overtaking
vehicle, horse-
man or foot
passenger
to give
warning.

(4) Where a person travelling upon a highway on a bicycle or tricycle overtakes any vehicle or horseman travelling at less speed, or a person travelling on foot, the person on the bicycle or tricycle shall give to the other person audible warning of his approach before attempting to pass. 2 Geo. V. c. 47, s. 4.

Driver un-
able to turn
out is to stop.

5.—(1) Where one vehicle is met or overtaken by another if, by reason of the weight of the load on either of the vehicles so meeting or on the vehicle so overtaken, the driver finds it impracticable to turn out he shall immediately stop and, if necessary for the safety of the other vehicle, and if required so to do, he shall assist the person in charge thereof to pass without damage.

Portable and
traction en-
gines meet-
ing or over-
taken by other
vehicles.

(2) Where a portable or traction engine is met or overtaken on a highway by a vehicle drawn by a horse or other animal, or by a horseman, the driver of the engine shall, if practicable, turn out to the right and give such vehicle or horseman at least one-half of the road, and shall in all cases stop and remain stationary until the vehicle or horseman has safely passed, and shall, if requested by the driver of the vehicle or by the horseman, assist such driver or horseman to pass without damage.

Stopping
engine.

(3) Every person in charge of a portable or a traction engine, and being upon a highway and about to meet or be passed by a vehicle drawn by a horse or other animal, or by a horseman, shall stop when at a distance of not less than one chain from such vehicle or horseman and shall remain stationary until the vehicle or horseman shall have safely passed such engine.

Lights to
be carried
ahead of
engine.

(4) Where any such engine is using a highway or bridge, between sunset and sunrise, it shall be the duty of all persons in charge thereof to see that some person shall walk, ride or drive ahead of it, carrying a light so as to give warning to persons in charge of approaching vehicles or animals, such person with such light to be and continue at least one chain in front of the engine; and it shall be the duty of such person also to warn the driver of such engine to stop when an animal or vehicle is drawing near, and also to warn the person in charge of such animal or vehicle of such engine.

Lights to
be carried
on engine.

(5) Every such engine shall, after sunset and before sunrise, carry a bright red light in a conspicuous place in front and a green light on the rear of the engine or of any vehicle which may be attached to it.

Noises not
to be made
when
passing
horses, etc.

(6) It shall be the duty of the driver, or of the person in charge of any such engine, to see that it makes no noise by whistling or otherwise when any horse or animal is passing

or is near or is about to pass the same on any highway. 2 Geo. V. c. 47, s. 5.

6. Where a person in charge of a vehicle or of a horse or other animal used as a means of conveyance, travelling or being on a highway, is, through drunkenness, unable to drive or ride the same with safety to other persons travelling on or being upon the highway he shall incur the penalties imposed by this Act. 2 Geo. V. c. 47, s. 6. Drunkenness of driver or rider.

7. No person shall race with or drive furiously any horse or other animal, or shout, or use any blasphemous or indecent language upon any highway. 2 Geo. V. c. 47, s. 7. Racing and disorderly conduct.

8. Every person travelling upon a highway with a sleigh, sled, or cariole, drawn by a horse or other animal, shall have at least two bells attached to the harness. 2 Geo. V. c. 47, s. 8. Sleigh bells.

9. Where a person travelling upon a bicycle or tricycle in a northerly or westerly direction upon the central strip between the double tracks of a surface railway meets another person on a bicycle or tricycle travelling in an opposite direction he shall turn out to the right, allowing to such other person the whole of the central strip. 2 Geo. V. c. 47, s. 9. Bicycles on devil strips.

BRIDGES.

10.—(1) The person who has the superintendence of any bridge exceeding thirty feet in length may cause to be put up at each end thereof, conspicuously placed, a notice legibly printed in the following form: Notice to be posted at bridges.

“Any person or persons riding or driving on or over this bridge at a faster rate than a walk will, on conviction thereof, be subject to a fine as provided by law.” Form of.

(2) A person who injures or interferes with such notice shall incur a penalty of not less than \$1 or more than \$8. Penalty for defacing.

(3) If, while such notice continues up, a person rides or drives a horse or other animal on or over such bridge at a pace faster than a walk he shall incur the penalties imposed by this Act. 2 Geo. V. c. 47, s. 10. Violation of prohibition notice.

PENALTIES; RECOVERY AND APPLICATION OF.

11. Where not otherwise specially provided any person contravening this Act shall incur a penalty of not less than \$1 nor more than \$20. 2 Geo. V. c. 47, s. 11. Generally.

12. No penalty or imprisonment shall be a bar to the recovery of damages by the injured person. 2 Geo. V. c. 47, s. 12. Right to damages reserved.

**Application
of penalties.**

13. Every fine when collected shall be paid to the treasurer of the local municipality or place in which the offence was committed, and shall be applied to the general purposes thereof, unless the offence was committed on a road or bridge owned by a company or person, and such company or person, or the officer or servant of such company or person is the complainant, in which case the penalty when collected shall be paid over to such company or person. 2 Geo. V. c. 47, s. 13.

Recovery.

14. The penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*. 2 Geo. V. c. 47, s. 14.

CHAPTER 207.

An Act to regulate the Speed and Operation of Motor Vehicles on Highways.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. This Act may be cited as *The Motor Vehicles Act*. Short title.
2 Geo. V. c. 48, s. 1.

2. In this Act,

Interpreta-
tion.

(a) "Highway" shall include public park, parkway and "Highway" driveway;

(b) "Motor vehicle" shall include automobile, locomobile, motor bicycle and any other vehicle propelled or driven otherwise than by muscular power; but shall not include the cars of electric or steam railways, or other motor vehicles running only upon rails or a traction engine within the meaning of *The Traction Engines Act*;

"Motor
vehicle."Rev. Stat.
c. 212.

(c) "Peace Officer" shall include a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer, justice of the peace, gaoler or keeper of a prison, and a police officer, police constable, bailiff, constable or other person employed for the preservation and maintenance of the public peace, or for the service or execution of civil process. 2 Geo. V. c. 48, s. 2.

"Peace
officer."

3.—(1) The owner of every motor vehicle driven on a highway shall pay to the Provincial Secretary a registration fee for such motor vehicle.

Registration
fee.

(2) The Provincial Secretary shall issue, for each motor vehicle so registered, a numbered permit stating that such motor vehicle is registered in accordance with this Act, and shall cause the name of such owner, his address and the number of his permit, to be entered in a book to be kept for such purpose.

Permits for
vehicles.

(3) The Lieutenant-Governor in Council may make regulations regarding renewals and transfers of such permits, the payment of fees therefor, the amount and time of payment of such fees, and the registration and operation of motor

Regulations.

vehicles owned by manufacturers or dealers and not kept by them for private use. 2 Geo. V. c. 48, s. 3.

Regulations.

(4) The Lieutenant-Governor in Council may make regulations

(a) For the appointment of permanent, special or temporary constables, servants or officers for enforcing or carrying out the provisions of this Act or of any regulations made thereunder;

(b) For defining the duties and powers of and for fixing the salaries, allowances and expenses to be paid to such constables, servants or officers.

Salaries and expenses of constables, etc.

(5) Such salaries allowances and expenses for the purposes mentioned in subsection 4 shall be payable out of any sum appropriated by this Legislature for the purposes mentioned in subsection 4. 3-4 Geo. V. c. 52, s. 1.

Licenses for paid drivers.

4.—(1) No person shall, for hire, pay or gain, drive a motor vehicle on a highway unless he is licensed to do so, and no person shall employ anyone so to drive a motor vehicle who is not so licensed.

Terms of license.

(2) The license for such purpose may be issued by the Provincial Secretary to such person for such time and upon such terms and subject to such regulations and restrictions as the Lieutenant-Governor in Council may prescribe. 2 Geo. V. c. 48, s. 4.

Certificate from two members of Ontario Motor League prior to granting license.

(3) A license shall not be issued to a person who drives a motor vehicle for hire, pay or gain unless and until he files in the office of the Provincial Secretary a certificate signed by two members of the Ontario Motor League appointed for that purpose by the Lieutenant-Governor in Council and residing in the municipality in which the applicant for the license resides, and also by the chief constable of that municipality stating that they have examined the applicant and that he is a fit and proper person to be so licensed having regard to his character, physical fitness, ability to drive and knowledge of the rules of the road.

(4) If there are not two such appointed members residing in the municipality the certificate may be signed by two such appointed members residing in the municipality nearest to that in which the applicant resides. 3-4 Geo. V. c. 52, s. 2.

Production of license.

5. A license must be produced by any person driving a motor vehicle for hire, pay or gain when demanded by a peace officer. 2 Geo. V. c. 48, s. 5.

Alarm bell to be sounded at crossings, etc.

6.—(1) Every motor vehicle shall be equipped with an alarm bell, gong or horn, and the same shall be sounded when-

ever it shall be reasonably necessary to notify pedestrians or others of its approach.

(2) Whenever on a highway, after dusk and before dawn, ^{Lamps.} every motor vehicle shall carry on the front thereof a lighted lamp in a conspicuous position. 2 Geo. V. c. 48, s. 6.

7. A motor bicycle, while being driven on a highway, shall have exposed on the back thereof a marker furnished by the Provincial Secretary showing in plain figures, not less than three inches in height, the number of the permit of such motor bicycle. ^{Marker on back of motor bicycle showing number of permit.} 2 Geo. V. c. 48, s. 7.

8.—(1) Every motor vehicle, other than a motor bicycle, while being driven on a highway, shall have attached to and exposed on the front and back thereof in a conspicuous position a marker furnished by the Provincial Secretary showing in plain figures, not less than five inches in height, the number of the permit. ^{Marker on front and back of other motor vehicles showing number of permit.}

(2) The marker on the front shall be as far forward and as high from the ground as may be necessary to render it distinctly visible, and the marker on the back shall be so placed that the lower edge thereof shall not be lower than the body of the motor vehicle. ^{Position of marker.}

(3) Every such motor vehicle shall carry a lamp so placed as to illuminate conspicuously at all times between dusk and dawn the number placed on the back of the vehicle. ^{Position of lamp.} 2 Geo. V. c. 48, s. 8.

9.—(1) No number other than that upon the marker furnished by the Provincial Secretary shall be exposed on any part of a motor vehicle. ^{No other numbers to be exposed.}

(2) The numbers shall be kept free from dirt and obstruction; and the markers shall be so affixed that the numbers may be at all times plainly visible. ^{Numbers to be kept clean.}

(3) No motor vehicle shall carry what is known to the trade as a search light. ^{Search light.} 2 Geo. V. c. 48, s. 9.

10.—(1) The provisions of sections 3, 7, 8 and 9, shall not apply to a motor vehicle owned by any person who does not reside or carry on business in Ontario for more than three consecutive months in each year, if the owner thereof is a resident of some other Province of Canada, and has complied with the provisions of the law of the Province in which he resides as to registration of a motor vehicle and the display of the registration number thereon; ^{Exceptions as to residents of other Provinces.}

(2) This section shall apply to such person only to the extent to which under the laws of the Province in which he resides like exemptions and privileges are granted with respect to a motor vehicle registered under the laws of and owned by residents of Ontario. ^{Limited application.} 3-4 Geo. V. c. 52, s. 3.

Rate of
speed.

11.—(1) No motor vehicle shall be driven upon any highway within a city, town or village at a greater rate of speed than fifteen miles an hour, or upon any highway outside of a city, town or village at a greater rate of speed than twenty miles an hour; but the council of a city, town, township or village may by by-law set apart any highway or any part thereof on which motor vehicles may be driven at a greater rate of speed for the purpose of testing the same, and may pass by-laws for regulating and governing the use of any such highway or part thereof for such purpose. 2 Geo. V. c. 48, s. 10.

Exception.

Reckless
driving.

(2) Notwithstanding the provisions of subsection 1, any person who drives a motor vehicle on a highway recklessly or negligently, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances, including the nature, condition and use of the highway and the amount of traffic which actually is at the time, or which might reasonably be expected to be on the highway, shall be guilty of an offence under this Act. 2 Geo. V. c. 48, s. 11.

Racing.

12. No person shall drive a motor vehicle upon a highway in a race or on a bet or wager. 2 Geo. V. c. 48, s. 12.

Persons
under 18
not to drive.

13. No person under the age of eighteen years shall drive a motor vehicle. 2 Geo. V. c. 48, s. 13.

Intoxicated
persons not
to drive.

14. No intoxicated person shall drive a motor vehicle. 2 Geo. V. c. 48, s. 14.

Manner of
passing
standing
street car.

15. When a motor vehicle meets or overtakes a street car which is stationary for the purpose of taking on or discharging passengers, the motor vehicle shall not pass the car on the side on which passengers are getting on or off until such passengers have got on or got safely to the side of the street as the case may be. 3-4 Geo. V. c. 52, s. 4.

Approaching
driven or
ridden horses.

16.—(1) Every person having the control or charge of a motor vehicle shall, when upon a highway and approaching any vehicle drawn by a horse, or a horse upon which any person is riding, operate, manage and control such motor vehicle in such manner as to exercise every reasonable precaution to prevent the frightening of such horse and to ensure the safety and protection of any person riding or driving the same, and, outside the limits of any city or town, shall not approach such horse within one hundred yards, or pass the same going in the opposite direction at a greater rate of speed than seven miles an hour, and, if going in the same direction, shall signal his desire to pass and give the rider or driver an opportunity to turn out so that he may be passed with safety, and if any such horse going in the opposite direction appears to be frightened or if such person is signalled so to do he shall

Rate of speed.

stop such motor vehicle, including the motor, and shall remain stationary so long as may be necessary to allow such rider or driver to pass or until directed by him to proceed; and in case any animal ridden or driven by such rider or driver appears to be frightened such person and the occupants of the motor vehicle shall render assistance to such rider or driver. Duty to stop.
 2 Geo. V. c. 48, s. 16. And to assist.

(2) A person having the control or charge of a motor vehicle shall not sound any bell, horn or other signalling device so as to make an unreasonable noise, and an operator of any motor vehicle shall not permit any unreasonable amount of smoke to escape from the said motor vehicle, nor shall such operator at any time, by cutting out the muffler or otherwise, cause such motor vehicle to make any unnecessary noise. Unnecessary noise.
 3-4 Geo. V. c. 52, s. 5.

17. The driver of a motor vehicle upon any highway outside the limits of a city shall upon meeting or overtaking a funeral procession stop his vehicle, including the motor, or, where practicable, shall turn out into an intersecting highway or lane until the funeral procession has passed. Passing funeral procession.
 2 Geo. V. c. 48, s. 17.

18. If an accident occurs to any person on foot or horseback, or in a vehicle, or to any horse or vehicle in charge of any person, owing to the presence of a motor vehicle on a highway the person in charge of such motor vehicle shall return to the scene of the accident and give in writing to anyone sustaining loss or injury his name and address, and also the name and address of the owner of such motor vehicle, and the number of the permit. Duty of person in charge in case of accident.
 2 Geo. V. c. 48, s. 18.

19. The owner of a motor vehicle shall be responsible for any violation of this Act or of any regulation prescribed by the Lieutenant-Governor in Council. Motor owner responsible.
 2 Geo. V. c. 48, s. 19.

20. No provision of any by-law heretofore or hereafter passed under paragraph 1 of section 406 of *The Municipal Act* which is inconsistent with the provisions of this Act shall affect or apply to motor vehicles. Rev. Stat. c. 192.
 2 Geo. V. c. 48, s. 20;
 3-4 Geo. V. c. 52, s. 6.

21. The Provincial Secretary may at any time, for misconduct or infraction of the provisions of this Act or of any regulation thereunder by an owner or driver of a motor vehicle, suspend or revoke any permit or license. Power to revoke permit or license.
 2 Geo. V. c. 48, s. 21.

22. The Provincial Secretary shall furnish all clerks of the peace with copies of this Act and of the regulations thereunder for distribution to the constables of all counties, districts and local municipalities, and he shall also furnish copies of this Act to the clerks of all local municipalities to Distribution of copies of Act and lists of permits and licenses.

be posted up in conspicuous places, and shall also furnish on the first days of May and September in each year to the clerks of all such municipalities lists of all persons to whom permits and licenses are issued. 2 Geo. V. c. 48, s. 22.

Onus of
disproving
negligence.

23. When loss or damage is sustained by any person by reason of a motor vehicle on a highway the onus of proof that such loss or damage did not arise through the negligence or improper conduct of the owner or driver of the motor vehicle shall be upon the owner or driver. 2 Geo. V. c. 48, s. 23.

Penalties.

24.—(1) Any person who violates any of the provisions of subsections 1 or 2 of section 8, subsection 1 of section 9, or sections 12, 14 or 18 shall be liable for the first offence to a penalty of \$50 or one week's imprisonment or both, for the second offence to a penalty of \$100 or one month's imprisonment or both, and for the third or any subsequent offence to imprisonment not exceeding six months. 2 Geo. V. c. 48, s. 24 (1); 3-4 Geo. V. c. 52, s. 7.

Convictions
for subse-
quent
offences.

(2) On a charge for a second, third or subsequent offence under this section a conviction need not be shown to be for an offence against the same section, but a conviction for an offence against subsections 1 or 2 of section 8, subsection 1 of section 9, or sections 12, 14 or 18 shall be deemed to be a prior conviction. 2 Geo. V. c. 48, s. 24 (2); 3-4 Geo. V. c. 52, s. 8.

When
chauffeur
may be
disqualified.

25.—(1) A Police Magistrate or Justice of the Peace before whom a person is convicted of an offence under this Act, if the person convicted is required to hold a license under section 4 and does not hold such license, may declare him disqualified to hold such a license for such time as the Police Magistrate or Justice of the Peace thinks fit and shall so report with the certificate of the conviction to the Provincial Secretary.

Convictions
to be endorsed
on license.

(2) If the person convicted holds a license issued under section 4 the Police Magistrate or Justice of the Peace shall cause particulars of the conviction, if for an offence against section 4, subsections 1 or 2 of section 8, subsections 1 or 2 of section 9, sections 11, 12, 14, 16, 17 or 18, to be endorsed upon such license, and if such conviction is a third conviction shall confiscate such license and any badge issued therewith, and shall forward the same with the certificate of the conviction to the Provincial Secretary.

Production
of license.

(3) A person so convicted, if he holds a license issued under section 4, shall produce the license within a reasonable time for the purpose of endorsement, and if he fails to do so shall be guilty of an offence under this Act. 2 Geo. V. c. 48, s. 25.

26.—(1) A Police Magistrate or Justice of the Peace who makes a conviction under this Act shall forthwith certify the same of the Provincial Secretary setting out the name, address and description of the person so convicted, the number of the permit of the motor vehicle with which the offence was committed, the number of the section of the Act contravened and the time the offence was committed, and if such offence was committed by a person licensed under section 4 the number of the license and the name, address and description of his employer, and if three such convictions for an offence against subsections 1 or 2 of section 8, subsection 1 of section 9, or sections 12, 14 or 18 are made against the same person the permit of the motor vehicle with which the offence, for which such third conviction was made, was committed, or the license issued under section 4, or both, may be cancelled and the offender shall not be entitled to a permit or license for a period of two years thereafter. 2 Geo. V. c. 48, s. 26 (1); 3-4 Geo. V. c. 52, s. 9.

Justice to
certify con-
viction to
Provincial
Secretary.

(2) The Police Magistrate or Justice of the Peace shall be entitled to add to the costs of the conviction twenty-five cents for his costs of the certificate.

Costs of
certificate.

(3) A copy of the certificate, certified by the Provincial Secretary or Assistant Provincial Secretary under the seal of the Provincial Secretary, shall be *prima facie* evidence of the conviction. 2 Geo. V. c. 48, s. 26 (2-3).

Proof of
prior con-
victions.

27.—(1) In the event of a third or subsequent conviction, under sections 3, 4, 12, 13, 14 or 18, the motor vehicle driven by the person convicted at the time of committing the offence of which he was convicted shall be seized, impounded and taken into the custody of the law for a period of three months. 2 Geo. V. c. 48, s. 27 (1); 3-4 Geo. V. c. 52, s. 10.

Impounding
motor vehicle.

(2) Such motor vehicle shall be stored where the convicting Police Magistrate or Justice of the Peace shall direct, and all costs and charges for the care or storage thereof shall be a lien upon such motor vehicle, and the same may be enforced in the manner provided by *The Mechanics' and Wage-Earners' Lien Act*.

Storage of
vehicles
and lien
therefor.

Rev. Stat.
c. 140.

(3) If the person so convicted gives sufficient security to the convicting Police Magistrate or Justice of the Peace by bond, recognizance or otherwise, that such motor vehicle shall not be operated upon any highway during such period of three months, the same may be delivered to the person so convicted or the owner thereof, and if such motor vehicle is operated upon a highway during such period it shall be deemed to be operated without a permit. 2 Geo. V. c. 48, s. 27 (2-3).

Release of
vehicle on
security given
by owner.

28. If the employer of a person driving a motor vehicle for hire, pay or gain is present in the motor vehicle at the time of the committing of any offence against this Act such

Owner may
be prosecuted.

employer as well as the driver shall be liable to conviction for such offence. 2 Geo. V. c. 48, s. 28.

Penalties.

29. Any person who violates any of the provisions of this Act or of any regulation made thereunder, where a penalty for the offence is not hereinbefore provided, shall incur a penalty not exceeding \$10 for the first offence, not exceeding \$20 for the second offence, not exceeding \$30 for the third offence, and not exceeding \$50 for any subsequent offence. 2 Geo. V. c. 48, s. 29; 3-4 Geo. V. c. 52, s. 11.

Application of penalty where constable or municipal officer prosecutes.

30. Where a constable or other officer of a municipality is the prosecutor any penalty imposed under this Act shall, when received, be paid over by the convicting Police Magistrate or Justice of the Peace to the treasurer of the municipality. 2 Geo. V. c. 48, s. 30.

Arrests by peace officer without warrant.

31.—(1) Every peace officer who, on reasonable and probable grounds, believes that an offence against any of the provisions of subsections 1 or 2 of section 8, subsection 1 of section 9, or sections 12, 14 or 18 has been committed, whether it has been committed or not, and who, on reasonable and probable grounds, believes that any person has committed that offence, may arrest such person without warrant whether such person is guilty or not. 2 Geo. V. c. 48, s. 31 (1); 3-4 Geo. V. c. 52, s. 12.

Assisting peace officers.

(2) Every person called upon to assist a peace officer in the arrest of a person suspected of having committed any such offence may assist, if he knows that the person calling on him for assistance is a peace officer, and does not know that there are no reasonable grounds for the suspicion.

Arresting on view.

(3) Every person may arrest without warrant any person whom he finds committing any such offence. 2 Geo. V. c. 48, s. 31 (2-3).

Detaining vehicle when arrest made.

32. A peace officer or other person making an arrest without warrant may detain the motor vehicle with which the offence was committed until the final disposition of any prosecution under this Act, but such motor vehicle may be released on security for its production being given to the satisfaction of a Justice of the Peace. 2 Geo. V. c. 48, s. 32.

Duty of person arresting without warrant.

33. A peace officer or other person making an arrest without warrant shall, with reasonable diligence, take the person arrested before a Justice of the Peace to be dealt with according to law. 2 Geo. V. c. 48, s. 33.

Recovery of penalties. Rev. Stat. c. 90.

34. The penalties provided by this Act shall be recoverable under *The Ontario Summary Convictions Act*. 2 Geo. V. c. 48, s. 34.

Section 285 of the Criminal Code reads as follows:

Every one is guilty of an indictable offence and liable to two years' imprisonment who, having the charge of any carriage or vehicle, by wanton or furious driving, or racing or other wilful misconduct, or by wilful neglect, does or causes to be done any bodily harm to any person.

CHAPTER 208.

An Act respecting Double Tracks in Snow Roads.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Snow Roads Act*. 2 Geo. V. c. 49, s. 1.

Interpretation—
"vehicle."

2. In this Act "Vehicle" shall mean a vehicle drawn by one or more horses or other animals or propelled by any motive power. 2 Geo. V. c. 49, s. 2.

Powers of
County
Council.

3. The council of a county may provide, by by-law, for the making of a double track during the season of sleighing in each and every year upon such leading highways within the county, whether or not county roads, as such council deems advisable. 2 Geo. V. c. 49, s. 3.

Nature of
tracks.

4. Where a county council has passed such a by-law the double track shall be so made that one vehicle may pass another without being obliged to turn out when meeting. 2 Geo. V. c. 49, s. 4.

Right of
road.

5. Every vehicle shall travel in the right-hand track, and any person driving or propelling his vehicle in the wrong track shall leave it when he meets a vehicle entitled to use such track. 2 Geo. V. c. 49, s. 5.

Duties and
powers of
path-masters
or road
masters.

6.—(1) A county council may also provide, by by-law, that pathmasters appointed by township councils shall cause the highways on which double tracks are to be made to be kept open for travel within their respective municipalities, or, if there are no such pathmasters available, may appoint roadmasters to perform that duty.

Calling out
persons
liable to
perform
Statute
Labour.

(2) Such pathmasters or roadmasters shall have power to call out persons liable to perform statute labour to assist in keeping open such highways within their respective municipalities, and may give to the persons employed in so doing certificates of having performed statute labour to the amount of the days' work done, and such work shall be allowed for in the next season's statute labour.

Application
of commuta-
tion of
Statute
Labour.

(3) The county council may also provide for the application by such township councils of so much of the commutation of statute labour fund as may be necessary for the keep-

ing open of such highways within their respective municipalities. 2 Geo. V. c. 49, s. 6.

7. If a township council neglects or refuses to keep such highways open for travel, as provided by the next preceding section, the county council may do so, and may impose upon the township so in default a rate sufficient for that purpose, and such rate shall be levied and collected in the manner provided by *The Assessment Act* for the collection of county rates. 2 Geo. V. c. 49, s. 7. County acting on default by township. Rev. Stat. c. 195.

8. Any person liable to perform statute labour who refuses or neglects to turn out and work under any pathmaster or roadmaster who warns him out for that purpose, under the authority of this Act, shall incur a penalty of not less than \$1 or more than \$20. 2 Geo. V. c. 49, s. 8. Penalty for persons refusing to work.

9. Any person travelling with his vehicle in the wrong track and refusing or neglecting to leave the same when met by a person who is rightfully travelling therein with his vehicle shall incur a penalty of not less than \$1 or more than \$20. 2 Geo. V. c. 49, s. 9. Penalty for refusing to turn out of wrong track.

10. The penalties mentioned in sections 8 and 9 shall be recoverable under *The Ontario Summary Convictions Act*. 2 Geo. V. c. 49, s. 10. Recovery of penalties. Rev. Stat. c. 90.

11. All the rights and powers by this Act conferred upon councils of counties may be exercised by the councils of townships in districts without county organization. 2 Geo. V. c. 49, s. 11. How Act enforceable in townships in districts.

CHAPTER 209.

An Act respecting Exemptions from Tolls.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Tolls Exemption Act*.
2 Geo. V. c. 51, s. 1.

Exemption from toll.

2. The following shall be exempt from the payment of any tolls or charges on embarking or disembarking from or upon any pier, wharf, quay or landing-place, or passing any road or bridge, or passing any toll-gate or road:

Officers and soldiers on duty.

- (a) His Majesty's officers and soldiers, including the militia, being in proper staff or regimental or military uniform, dress or undress, and their horses, but not when passing in any hired or private vehicle unless when on or proceeding to or from duty;

Recruits.

- (b) Recruits marching by route;

Prisoners.

- (c) Prisoners under military escort;

Pensioners.

- (d) Enrolled pensioners in uniform when called out for training or in aid of the civil power;

His Majesty's horses and carriages.

- (e) Carriages and horses belonging to His Majesty or employed in His service when conveying such persons or their baggage or returning therefrom;

Funerals, going or returning.

- (f) Persons, horses or vehicles going to or returning from a funeral;

Church, going or returning from.

- (g) Any person with a horse or vehicle going to or returning from his usual place of religious worship on Sunday or any other statutory holiday;

Crossing toll road.

- (h) Any person, horse or other animal or vehicle merely crossing a road or travelling thereon not more than half a mile in crossing from one transverse road to the transverse road which is nearest to the one from which such crossing was made;

Farmer or gardener going to work on his own farm.

- (i) Any farmer or gardener residing on the line of such road when going to or returning from his work on his farm or garden, or his cattle or other stock when being driven or taken from one farm or

garden owned or occupied by him to another part of the same farm or garden when such farm or garden also adjoins such road; but where the farm or garden is not continuous along such road such farmer or gardener shall not be entitled to travel thereon without toll, or to drive or take his cattle or other stock more than one-half mile on any part of such road not adjoining or in front of his farm or garden;

- (j) Every person with a vehicle laden solely with manure brought from any city, town or village, and employed to carry such manure into the country parts for the purpose of agriculture, and the horses or other animals drawing such vehicles passing any toll-gate on such road within twenty miles of such city, town or village, as well in going from such city, town or village as in returning thereto if the vehicle is then empty; Vehicles laden with manure.
- (k) Every person with a vehicle laden solely with straw and carrying such straw from any township to any city, town or village for the purpose of exchanging the same for manure to be brought back the same day, and the horse or other animal drawing such vehicle passing any toll-gate on such road within twenty miles of such city, town or village, as well in going to such city, town or village as in returning therefrom if the vehicle is then laden solely with manure; Vehicles laden with straw.
- (l) Vehicles carrying the mails upon a road or bridge constructed by the Government or Board of Works of the late Provinces of Canada or Upper Canada and transferred to a company on condition that the mails should pass free over the same, except a mail stage or other vehicle drawn by two horses and carrying the mail and having more than four passengers, or a mail stage or other vehicle drawn by four horses and carrying the mail and having more than eight passengers; but every mail stage or vehicle drawn by two horses and containing more than four passengers, and every mail stage or vehicle drawn by four horses and containing or having more than eight passengers travelling thereby, shall for every extra passenger beyond four or eight respectively be liable at each gate to a toll of two cents. Mail carriages, etc., on certain roads. Exception limited on the roads last mentioned. Rate of toll if mail carriage has more than 4 or 8 passengers respectively. 2 Geo. V. c. 51, s. 2.

3. This Act shall not extend to any toll-bridge the tolls on which are vested in any person other than the Crown. Application of Act. 2 Geo. V. c. 51, s. 3.

CHAPTER 210.

An Act respecting Toll Roads.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Toll Roads Act*. 2 Geo. V. c. 50, s. 1.

PART I.

CONSTRUCTION AND OPERATION OF TOLL ROADS.

Interpretation.

2. In this Part,

"Inspector."

- "Inspector" shall mean the Inspector of Toll Roads. 2 Geo. V. c. 50, s. 2.

APPLICATION OF PART I.

Application of Part I.

3. This Part shall apply to companies heretofore or hereafter incorporated for

- (a) Constructing on, along, or over any public road or highway, or allowance for road, or on, along, or over any other land a planked, macadamized, gravelled or other road not less than two miles in length, and also any bridges, piers, or wharfs connected therewith; or
- (b) Purchasing any such road and any bridges, piers or wharfs connected therewith. 2 Geo. V. c. 50, s. 3.

INCORPORATION OF ROAD COMPANIES.

Prerequisites to incorporation. Subscription.

- 4.—(1) No company shall be incorporated until,

- (a) Shares have been subscribed for to an amount deemed sufficient to construct or purchase, as the case may be, the entire road and works for the construction or purchase of which the incorporation of the company is sought; and

Proportion paid in.

- (b) The subscribers for shares, or some of them, have paid, on account of the shares subscribed for, ten per cent. of the entire amount of the proposed capital stock. 2 Geo. V. c. 50, s. 4.

5. Except as hereinafter provided no company shall construct such road or other works through, over, along or upon any private property or property of the Crown without having first obtained the permission of the owner or occupier thereof or of the Lieutenant-Governor in Council, as the case may be. 2 Geo. V. c. 50, s. 5.

6. No road shall be constructed or pass within the limits of any city, town or village except by permission, under a by-law, of the city, town or village. 2 Geo. V. c. 50, s. 6.

7. All bridges in the line of road between the termini of any road, which are not within the limits of any city, town or village, shall be deemed part of such road unless specially excepted in the charter of the company. 2 Geo. V. c. 50, s. 7.

8. No road shall be made of a higher grade than one foot elevation to twenty feet along the road without the sanction of the engineer of the county in which the road or other work is situate or constructed, and if there is no such officer then of an engineer appointed by the county council for that purpose. 2 Geo. V. c. 50, s. 8.

9. If under any statute heretofore passed a company has been formed to construct any road, bridge, pier, or wharf connected therewith, and the stock of the company has been subscribed, and the work is in course of completion within the time limited by the statute under which the charter was obtained no company shall be incorporated for the construction of the road for the construction of which the prior charter was obtained so long as the charter remains in force. 2 Geo. V. c. 50, s. 9.

10.—(1) No company shall commence any work until thirty days after the directors have served a written notice upon the head of the municipality within the jurisdiction of which the road or other work connected therewith is intended to pass.

(2) If the council of such municipality passes a by-law prohibiting, varying or altering such intended line of road or the plan of such other work, the by-law shall have the same force and effect, and be as obligatory upon all persons and upon such company, if the company proceeds with the construction of the road or other works, as if the provisions thereof had been contained in this Act.

(3) If no by-law is passed within thirty days after service of the notice the company may proceed with the intended road or other works. 2 Geo. V. c. 50, s. 10.

When old road may be closed up by by-law.

11. Where a new road has been opened, or the line of an old road has been changed, the municipality having jurisdiction may pass a by-law stopping up the old road, or part of a road, and for conveying the same to the person or persons from whom land was taken to form the new road, if it does not exclude any person residing on or near the line of the old road from convenient access to the new road. 2 Geo. V. c. 50, s. 11.

Exploring country and taking land and material.

12. The company may explore the country lying between the termini of its road, or supposed to be adapted for the site of any other works connected with such road, and may designate, take and hold the requisite land upon the line and within the limits of such road, or for such other works, and may, for the purpose of the construction and repair of such road or other works, take and carry away stone, gravel, sand, earth and other like material, from any adjoining or neighbouring land, and may also cut, make and keep in repair, upon such adjoining or neighbouring land, such ditches, drains and water courses as are necessary for effectually draining or carrying off the water from such road or other works. 2 Geo. V. c. 50, s. 12.

Drainage.

Cutting down timber.

13. Where such road passes through or by any wood or standing timber the company may cut down the trees and underwood for one hundred feet on each side of the road, and, for that purpose, the company and their agents, servants and workmen may enter into and upon the land of any person, doing no unnecessary damage. 2 Geo. V. c. 50, s. 13.

Arbitration in default of agreement as to compensation.

14.—(1) If the owner or occupier of any land over, through or upon which the company desires to construct any such road or other works, or from which it desires to take material, or on which it intends to exercise any of the powers given to it by this Act, neglects or refuses, upon demand made by the company, to agree upon the price or amount of damages to be paid for or for passing through or over such land, and expropriating the same, or for material taken, or for the exercise of any such powers, the same shall be determined by arbitration.

Rev. Stat. c. 65. *As to appointment of arbitrators, see The Arbitration Act.*

Proceedings for arbitration where owner absent or unable to sell, or the lands are mortgaged, etc.

(2) If the land required by the company, or with regard to which such powers are to be exercised, is held or owned by any person whose residence is not within Ontario, or is unknown to the company, or if the title to the land is in dispute, or the land is mortgaged, or if the owner is unknown, or is from any cause incapable of treating for the sale thereof, or for the exercise of such power, or to appoint an arbitrator, the company may name one disinterested person and the Judge of the County or District Court of the county or dis-

trict within which the land lies, on the application of the company, may name another person from any township adjoining the township in which the land lies, who, together with one other such person to be chosen by them, before proceeding with the reference, or, in the event of their disagreeing as to the choice of such other person, to be appointed by the Judge, shall be arbitrators to determine the compensation.

(3) In ascertaining the amount of compensation, the arbitrators shall have regard to any special benefit to accrue to the owner or occupier by the construction of the road or other works. Benefit to owner to be allowed for.

(4) In other respects the provisions of section 166 of *The Ontario Companies Act* shall apply. Rev. Stat. c. 178. 2 Geo. V. c. 50, s. 14; 3-4 Geo. V. c. 18, s. 36.

15. The award, or a duplicate thereof, shall be registered in the proper registry office, and, if the compensation has been paid, the company may thereupon enter upon and take possession of the land for the use of the company and proceed with the construction of its road or other works in, along or over the same. Registration of award. 2 Geo. V. c. 50, s. 15. When company may proceed.

16. No road or other work shall encroach upon any building or pass through or upon any pleasure ground, garden, yard or orchard, nor shall any material be taken therefrom, nor shall any timber be taken from any enclosed land without the consent of the owner. Gardens, orchards, etc., not to be encroached upon. 2 Geo. V. c. 50, s. 16.

17. After a survey of a road has been made the owner or occupier of land through or along which the road is intended to pass shall not, by erecting any building or enclosing any part of such surveyed land as a yard or by planting fruit trees or forming an orchard thereon, prevent the company from taking possession of the land. Owner not to enclose, in order to evade Act. 2 Geo. V. c. 50, s. 17.

18.—(1) Where a company desires to widen, extend or alter the line of road as projected or constructed, or to construct a branch road to intersect the original main road, or to improve or repair a road or part thereof by substituting stone, gravel, plank or other suitable material, the company may, from time to time, but subject to the rights of any other company then incorporated under this or any other Act, by by-law provide for the widening, extending or altering of such line or road, or for the construction of such branch road and the making of such improvements and repairs. Widening or altering roads.

(2) The powers conferred by this section of widening, extending or altering the line of road, or of constructing a branch road, shall not be exercised without the consent of the council of the municipality within whose jurisdiction such powers are to be exercised. Consent of council.

Crossing
intersecting
road.

(3) This section shall not prevent the company from crossing an intersecting road of another company on such terms and conditions as, if the companies cannot agree, may be determined by the Lieutenant-Governor in Council. 2 Geo. V. c. 50, s. 18.

SALE OF ROADS.

Company's
right to sell
and municipal
corporation's
right to
purchase.

19. A company may sell to the corporation of a municipality through or along the boundary of which such road passes or in which its works are situate, and the corporation may purchase the stock of the company, or any part of such road or works, at a price to be agreed on; and the corporation may hold the same for the benefit of the municipality, and shall, after the purchase, stand in the place and stead of the company, and possess all such powers and authority as the company possessed and was entitled to exercise in respect to the road or part of road or other work purchased. 2 Geo. V. c. 50, s. 19.

Fund for the
purchase of
road,
how formed.

Idem.

20.—(1) The corporations of all municipalities through or along the boundaries of which a toll road passes shall set apart as a fund for the purchase of such road all taxes collected from the company and all dividends received on the stock of the same, owned by the corporation; and such corporations, and the corporations of all cities, towns and villages within three miles of the road may add to such fund from the other money of the corporation; and such fund may be invested from time to time in the stock of such company, or, where such road is not owned by a company, in purchasing a fixed interest therein.

Removal of
toll gates on
completion of
purchase of
stock.

(2) On the completion of the purchase of the whole of the stock of the company or of the road, and payment of any debt incurred therefor, or sooner, if the council of the municipality so decides, all toll gates shall be removed from such road. 2 Geo. V. c. 50, s. 20.

Rights passing
under sale.

21. When a road, bridge, pier or wharf has been heretofore or is hereafter sold, either by the company or under a power granted by it or under legal process against the company, the sale shall be deemed to have passed and to pass such road, bridge, pier or wharf to the purchaser with all the rights, privileges and appurtenances and subject to all the duties and obligations which the law gave or imposed with reference to the road, bridge, pier or wharf whilst the same was the property of the company. 2 Geo. V. c. 50, s. 21.

POWERS OF MUNICIPAL COUNCILS.

Municipality
acquiring
stock in
company.

22. A municipal corporation, having jurisdiction within the locality through or along the boundary of which a road passes or in which a work is constructed, may subscribe for, hold, sell and transfer shares in a company, and the council

may from time to time direct the head of the municipality, on behalf thereof, to subscribe for such shares in the name of the corporation, and to act for and on behalf of the corporation in all matters relating to such shares, and the exercise of the rights of the corporation as a shareholder and the head of the municipality, whether otherwise qualified or not, shall be deemed a shareholder in the company and may vote and act as such, subject to any rules and orders in relation to his authority made in that behalf by the by-laws of the council or otherwise, and may vote according to his discretion in cases not provided for by the council. 2 Geo. V. c. 50, s. 22.

23. The council may pay all instalments upon the shares subscribed for or acquired out of any money of the corporation not appropriated to any other purpose. 2 Geo. V. c. 50, s. 23.

Municipality may raise money to pay for stock.

24. Where a municipal corporation holds shares in a company and is entitled to vote for the election of directors, and holds a controlling amount of the shares in the company, the council shall, by resolution, appoint such number of directors only as will suffice to form a majority of the board of directors, and every member of such council, whether a shareholder in his own right or not, and any ratepayer in the municipality not being a shareholder in his own right, shall be eligible to be appointed director on behalf of the corporation, and the shareholders, other than such corporation, shall elect the other directors. 2 Geo. V. c. 50, s. 24.

Election of directors by municipalities controlling stock.

25.—(1) The council of any municipality, through or along the boundary of which a road passes or within which any works connected therewith are constructed, may, out of the money of the corporation and not appropriated to any other purpose, lend money to the company upon such terms and conditions as may be agreed on.

Municipalities may loan money to companies.

(2) The corporation may issue debentures for raising the amount required for the loan in the same manner and subject to the same conditions as are applicable to the creation of a debt and the issue of debentures therefor. 2 Geo. V. c. 50, s. 25.

And issue debentures.

26. The provisions of the last preceding four sections shall, as respects the corporations of cities and towns, apply to companies for the construction of roads or bridges whether within or without such cities or towns. 2 Geo. V. c. 50, s. 26.

Application of the provisions of SECT. 22-25, to councils of cities and towns.

MATERIALS.

27. Subject to the provisions of section 14 a company, or a municipal corporation having the management of a road, may acquire, expropriate and hold any gravel bed and stone

Power to acquire gravel beds, etc.

or gravel from any land lying within any municipality through or along which the road or any portion thereof passes for repairing the same. 2 Geo. V. c. 50, s. 27.

Materials to be used.

28. A company may form a turnpike road, in part or the whole, of metal, gravel, timber or any other material suitable for constructing a firm, substantial and smooth surface, whether or not the material is mentioned in the instrument of incorporation. 2 Geo. V. c. 50, s. 28.

Sowing roadside with grass and keeping down weeds.

29.—(1) Every company shall, whenever necessary, sow with grass seed all cleared land belonging to the company adjoining its road, and cause the same, so far as practicable, to be covered with grass or turf, and shall cause all thistles and other noxious weeds growing on the land to be kept cut down or rooted out.

Penalty.

(2) For every contravention of this section the company shall incur a penalty of \$2 for each day on which it fails to comply with any of the requirements of this section, within eight days after having been required to do so by a notice to be served on the company by or on behalf of the corporation of the municipality within which the land lies.

Powers of corporation on default.

(3) If the company does not, within eight days, comply with the notice the corporation may cause all such things to be done as the company was by the notice lawfully required to do, and the corporation may recover the expense of so doing, together with the penalty and all costs and charges, from the company in any Court of competent jurisdiction. 2 Geo. V. c. 50, s. 29.

TIME FOR COMPLETION OF ROAD.

Time for completion of work.

30.—(1) Every company shall, within two years from the day of its incorporation, complete every road or extension thereof, not more than five miles in length, and any other work undertaken by it and for the completion whereof it was incorporated, and, in default thereof, all its corporate powers shall thenceforth cease and determine, unless further time is granted by a by-law of the county in which the road, or the greatest portion thereof, is situate.

Where road exceeds five miles.

(2) If the road or extension thereof exceeds five miles in length the company shall complete in each and every year, after the expiration of such first two years, not less than five miles of the road until the same is entirely finished, and in default, unless further time is granted as provided by subsection 1, as far as concerns the portion of the road which remains unfinished, its corporate powers shall thenceforth cease and terminate. 2 Geo. V. c. 50, s. 30.

ABANDONMENT OF ROADS.

Abandonment of whole road.

31.—(1) A company may by by-law abandon the whole or, subject to subsection 5, any portion of its road.

(2) After the abandonment of a portion of such road the council of any municipality, within which the road or any part thereof lies, shall assume such abandoned portion as lies within the municipality, and shall have and may exercise the same jurisdiction over the same, and the corporation shall be liable to the same duties as it has or is subject to in respect to public roads.

Abandonment
in part.

Assumption
by council.

(3) The abandonment of the whole road shall be signified by the head or president of the company by a notice in writing, delivered to the clerk of the council of the county wherein the road or any part thereof lies; and, until the delivery of such notice, the company shall be liable for damages arising from the unsafe condition of the road, and after the abandonment the council of any county within which the road or any part thereof lies may assume such abandoned portion of the road as lies within the county, and the corporation of such county shall have and enjoy all the rights and be subject to all the responsibilities and liabilities as is provided in section 48.

Abandonment
of whole
road.

Assumption
by council.

(4) Failing such action on the part of the council of the county the road shall be subject to the same jurisdiction for the control and repair thereof as is provided in section 49.

Where road
not assumed
by council.

(5) A company shall not be entitled to abandon a part of its road without the consent, to be expressed by by-law, of the council of the municipality within which the portion of the road lies; nor shall any company or municipal corporation be entitled to collect tolls upon any remaining portion of the road less than five miles in length if the road originally exceeded that length. 2 Geo. V. c. 50, s. 31.

By-law of
Council
necessary to
abandonment.

Tolls, when
not collect-
able.

TOLLS ON ROADS, ETC.

32. The company may from time to time fix, regulate and receive the tolls and charges to be paid by persons passing and repassing with horses and vehicles, and for cattle, swine, sheep and other animals driven upon, over and along the road of the company, or by persons passing over any bridge with such vehicles or animals, or using any work of the company. 2 Geo. V. c. 50, s. 32.

Tolls, how to
be fixed, paid
and levied.

33.—(1) When two or more miles of road have been completed, and have been approved in writing by the Inspector, tolls may be taken therefor, but tolls shall not be taken on any other work of the company until the same has been completed.

When tolls
may be
collected.

(2) The right to take tolls shall not be affected by the intervention, in the line of the road, of a bridge which is owned by or under the jurisdiction of a municipal corporation or of another company. 2 Geo. V. c. 50, s. 33.

Intervening
bridge not
to affect
right.

Limitation
of tolls.
Rev. Stat.
c. 209.

34.—(1) Subject to the provisions of *The Tolls Exemption Act*, and except as otherwise provided by this Part, tolls may be taken at each time of passing each gate upon the road for any portion of such road on either side or on both sides of the gate, not being more than five miles to the next gate, if any, and not exceeding five miles in the whole or for the whole of the road, if the length thereof does not exceed five miles and there is only one gate thereon, at the following rates per mile:

One horse
and vehicle.

(a) For every vehicle drawn by one horse or other animal and the horse or other animal drawing the same, one and one-half cents;

Two horses
and vehicle.

(b) For every vehicle drawn by two horses or other animals and the horses or other animals drawing the same, two cents;

Additional
horse.

(c) For every additional horse or other animal drawing such vehicle, one cent;

Horse with
or without
rider.
Head of
cattle.
Sheep.

(d) For every horse, with or without a rider, one cent;

(e) For each head of neat cattle, one cent;

(f) For every score, or less than a score, of sheep or swine, one cent;

Auto-
mobiles.

(g) For every automobile, locomobile or other vehicle propelled otherwise than by muscular power, excepting the cars of electric or steam railways and other motor vehicles running only on rails or tracks, three cents;

Thrashing
machine.

(h) For every thrashing or traction engine, and for every thrashing machine with or without its water-cart drawn by such engine or by horses or other animals, five cents;

Additional
charges.

(i) In addition to the foregoing rates one cent at each time of passing each gate for any portion of the road, on either side or both side thereof, for every five hundred pounds over and above six thousand pounds which a loaded vehicle weighs.

Special
rates for
short roads.

(2) On any toll road established on or before the 16th day of April, 1895, which is not less than two miles or more than three miles long, where one toll only is charged for using the whole length of the road, a charge of three cents for one horse or other animal and any vehicle drawn thereby may be made at each time of passing a gate, or five cents for passing and return on the same day, if required, and a charge of five cents may be made for a pair of horses or other animals and any vehicle drawn thereby at each time of passing a gate.

Fraction
of cent.

(3) If, in computing the toll to be paid, the computation results in a fraction of a cent such fraction shall be counted as a cent. 2 Geo. V. c. 50, s. 34.

35.—(1) Where a toll road is intersected by or connected with another toll road not owned or in the possession of the same company or municipal corporation the tolls to be charged upon either of such roads, from the point of intersection or connection, shall be based upon the mileage of the road from the point of intersection or connection to its termination in the direction in which the person liable for toll is proceeding, and shall be calculated at the rate per mile charged for travelling along the entire length of the road.

Tolls on intersecting roads not owned by same company.

(2) It shall be incumbent on such person to produce a ticket from the last toll-gate on the intersecting or connecting road as evidence of his having travelled only from the intersection or connection. 2 Geo. V. c. 50, s. 35.

Ticket for intersecting road.

36. A company, with the sanction of the council of the county having jurisdiction in the locality, may charge a higher rate of toll than is hereby authorized at any toll-gate erected at a bridge upon or connected with a road constructed by the company; and the council, in sanctioning such additional toll, may take into account the cost of the bridge, and may calculate the toll as if for so many additional miles of road as might have been constructed by the like expenditure. 2 Geo. V. c. 50, s. 36.

Higher rate for tolls at bridges with consent of county council.

37. A company may erect such number of toll-gates, check-gates and side-bars in, along or across the roads and upon any other of its works, and may fix, regulate and collect such tolls, not exceeding the rates hereinbefore provided to be collected at each gate, check-gate, or side-bar, as it may deem expedient, and may from time to time alter the tolls, toll-gates, check-gates and side-bars, and may erect and maintain such toll-houses, toll-gates, check-gates, side-bars and other buildings and erections as are necessary and convenient for the due management of the business of the company. 2 Geo. V. c. 50, s. 37.

Toll and check-gates, and side-bars.

38. Where a company deems it necessary or convenient to erect a check-gate on any part of its road it shall not be entitled to toll at both the check-gate and the gate to which it acts as a check; but tickets shall be issued at the check-gate, on payment of the toll demanded, clearing the principal gate, and *vice-versa*; and the distance regulating the rates of toll shall not be calculated between any of the check-gates and the principal gates, but only between the principal gates. 2 Geo. V. c. 50, s. 38.

Calculation of tolls where check-gates are used.

39. No gate-keeper shall be bound to give change for a larger amount than \$1. 2 Geo. V. c. 50, s. 41.

As to money change.

40. The company may, from time to time, commute the tolls with any person whose place of abode adjoins the roads

Commuting tolls with near residents.

or is within half a mile of the gate nearest to his place of abode on such road. 2 Geo. V. c. 50, s. 39.

Procedure to
obtain
commutation.

41.—(1) Any person desiring to commute for a fixed annual sum the tolls payable by him may give notice in writing to the company requiring it to commute the tolls payable at any toll gate or toll gates on the road, in respect of vehicles and animals owned by or in the possession of such person, at a gross amount per annum from the date at which the amount of the commutation shall be settled.

On failure
to agree.

(2) If such person and the company are unable to agree upon the amount to be paid the same shall, on the application of such person, be determined by the Judge sitting in the Division Court of any division into which any part of the road extends whose decision shall be final.

Notice of
application
to Judge.

(3) The person making application shall give at least ten days' written notice thereof to the company by leaving it with the person in charge of the toll gate, or one of the toll gates, in respect to which commutation is sought, and the notice shall state the name of the applicant, his place of abode, occupation and post-office address, and the time and place of the sittings of the Division Court at which the application will be made.

Summary
determination
of question.

(4) The Judge shall hear the parties and take evidence on oath, if required, and dispose of the matter in a summary way, and shall give his decision thereon in writing to such of the parties as shall apply for the same, and the costs of the proceedings shall be in the discretion of the Judge, who shall make such order in the premises as appears to him to be just.

(5) The Judge shall have regard to:—

Matters to
be considered
by Judge.

(a) An approximate estimate of the amount of toll paid by the applicant during the twelve months next preceding the application, and the probable travel for the twelve months succeeding the date of such decision;

Number of
animals, etc.

(b) The number of horses or other animals, and the number and nature of the vehicles owned or used by the applicant, in respect of which toll may be demanded;

Distance of
property
from gate.

(c) The distance from the gate or gates at which the property owned or occupied by the applicant is situate;

Cost of
travelled
portion.

(d) The cost of that portion of the road travelled over by the applicant and the benefits and advantages derived by him from the construction of such road; and

- (e) Such other considerations as may be necessary to Other considerations.
do justice in the premises.

(6) The commutation shall be based upon the mileage How commu-
rates of toll authorized by this Act, and where the distance tation to be
proposed to be travelled over by the applicant is less than the fixed.
whole length of the road the amount of the commutation
shall be based upon the actual distance which the applicant
proposes to use, and he shall be entitled for such commuta-
tion rate to use any portion of the road that may be speci-
fied in the order.

(7) The order of the Judge shall continue in force from How long to
year to year at the same rate and until rescinded upon the be in force.
application of either party after the expiration of one year
from the date thereof.

(8) If at any time during the currency of such order it Reconsidera-
is made to appear to the Judge that the actual user of the tion of order
road by the person so commuting is so increased, or so of commuta-
decreased, as to render the sum fixed by such order mani- tion.
festly unjust, either party may, by leave of the Judge, obtain
a reconsideration of the order in the same manner as is herein
provided for the original application, and, upon such recon-
sideration, the Judge may make such amended or other
order as he deems just.

(9) Upon the production of the order fixing the amount Annual ticket
of the commutation, and on payment of the amount named or pass.
in the order, or upon payment of the amount agreed upon, as
the case may be, the company shall give to the person so
commuting an annual ticket or pass for the toll-gate or toll-
gates in respect of which commutation has been made, and,
upon the production of such ticket or pass by the person
named therein, or by his servants, or a member of his family,
all vehicles, horses and other animals, in respect of which
toll would otherwise be payable, if owned by or in the pos-
session of the person commuting, shall, during the period for
which commutation has been made, be permitted to pass
through such gate or gates without payment of toll.

(10) Any person who fraudulently transfers such ticket Penalty for
or pass, or who uses or attempts to use the same so as to transferring
enable vehicles, horses, or other animals, other than those pass, etc.
mentioned in this section, to pass through any toll-gate or
over any toll-road without payment of toll, shall incur a pen-
alty of not less than \$5 or more than \$20.

(11) No order for commutation shall affect the right of the Extra tolls.
company to demand and enforce payment of the extra tolls
authorized by clause (i) of section 34. 2 Geo. V. c. 50, s. 40.

(As to exemption from toll, see *The Tolls Exemption Act*,
Rev. Stat. c. 209.)

REPAIR OF ROAD AND COMPELLING REPAIRS.

Company to
keep road
in repair.

42. After a road or portion of a road, bridge, or other work has been completed and tolls have been established thereon the company shall keep the same in repair. 2 Geo. V. c. 50, s. 42.

Proceeding
to compel
repairs; In-
spector of
toll roads.

43.—(1) The Lieutenant-Governor in Council may, from time to time, designate an officer of the Public Works Department who shall be known as "The Inspector of Toll Roads."

Inspection at
request of
municipality
or ratepayers.

(2) It shall be the duty of the Inspector to inspect any roads on which tolls are taken, whenever requested so to do by resolution of the council of any municipality in which the road, or any part of it, is situate, or upon a requisition signed by at least twenty ratepayers residing within three miles of such road, or from time to time as he may deem necessary. 2 Geo. V. c. 50, s. 43.

Notice to
company by
inspector of
non-repair.

44.—(1) If, upon any such inspection, the Inspector is of the opinion that any such road, or portion thereof, is out of repair he shall notify the company by leaving a written notice at its office or place of business, if any, within the county wherein the road is situate, where the office or place of business is known to the Inspector, and, if not so known, then by leaving the notice with any of the keepers of the toll gates of the company.

Contents of.

(2) The notice shall state that the Inspector has inspected the road and found it out of repair, and shall specify the particular portion of it which he finds out of repair, and shall require the company to cause the same to be repaired within a time to be named in the notice, sufficient, in the opinion of the Inspector, for making the required repairs.

Examination
on expiration
of time.

(3) At the expiration of the time limited in the notice the Inspector shall again examine the road, and if he finds it repaired in a good and efficient manner he shall so certify it, if required by the company.

Allowance
of further
time,

(4) If he does not find it so repaired he may, in his discretion, by a permission in writing, allow further time for repairing without discontinuing the taking of tolls.

Suspension of
right to tolls.

(5) If he does not think proper to grant such permission, or, if having granted it, he does not find the road properly repaired at the expiration of the time limited in such permission, then, until such repairs are completed, neither the company nor municipal council, as the case may be, shall demand or take tolls at any gate upon the road where the whole road is reported to be out of repair, or where a portion of the road only is out of repair, for passing through the nearest toll-gates on either side of such portion, under the penalty mentioned in section 47, until the Inspector has again

examined the road and certified it to be in good and efficient repair.

(6) If, upon the inspection mentioned in subsection 1, any bridge, or any portion of the road, is, in the opinion of the Inspector, in such a condition as to be dangerous to public travel, and if the company fails or refuses to put such bridge or portion of the road in repair within such time as the Inspector allows, and after notice given as provided by subsections 1 and 2, the council of the municipality in which the bridge or road is situate may, with the consent and under the direction of the Inspector, cause such bridge or portion of the road to be repaired sufficiently to remove the cause of danger, and the company, until the Inspector otherwise directs, shall not collect tolls unless it has reimbursed the municipality for the outlay made in connection with such repair.

Repair of road or bridge by municipality on failure of company to do so.

(7) After the notice of the Inspector, and until the repairs have been completed, the company shall not, nor shall any person, destroy, take, remove, or carry away from the road any earth, stone, gravel, or other material forming any part of the road, or having been used in the construction of it, nor any toll-house, toll-gate, toll-bar, or any appendages thereto.

Materials not to be removed from road.

(8) The company, or any person, contravening any provision of subsection 7 shall incur the penalties mentioned in section 63, and the penalties when recovered shall be paid over to the treasurer of the municipality. 2 Geo. V. c. 50. s. 44.

Penalties.

45.—(1) The Inspector may make a special report to the Minister of Public Works that the road inspected by him is, as to the whole or as to a specified portion thereof, so much out of repair as, in his opinion, to justify an order for the cesser of the right to tolls, in respect to the whole or to the portion of the road specified.

Special report by Inspector.

(2) After service of a copy of the report on the company, in the manner provided for the service of the notice mentioned in subsections 1 and 2 of section 44, neither the company nor any person authorized by it shall demand or take tolls at any gate upon the road, where the whole road is reported to be out of repair, or where a portion of the road only is reported to be out of repair, for passing through the nearest toll-gates on either side of such portion, under the penalty mentioned in section 47, until the Inspector has again examined the road and certified it to be in good and efficient repair. 2 Geo. V. c. 50, s. 45.

Suspension of right to tolls after service of report.

46.—(1) In case of sudden damage to or the destruction of any portion of a road, or of a bridge or culvert, caused by freshet or fire, or if the directors desire to take down any

Partial want of repair.

bridge or culvert for the purpose of rebuilding the same, the Inspector, if the remaining portions of the road are in a suitable state of repair, shall allow a reasonable time for the repair of such portion of the road, or the erection or construction of such bridge or culvert, and shall give notice in writing to the company of the time so allowed; and the company may collect tolls during the time specified in the notice.

Temporary passage.

(2) Where the company is entitled to take toll under the provisions of the next preceding subsection the company, within a time to be fixed by the Inspector, shall provide a temporary passage to enable any persons travelling over the road to safely pass the portion of road, bridge or culvert so out of repair or being taken down.

Neglect to repair.

(3) If the company does not erect or construct such bridge or culvert, or repair such portion of the road, within the time specified in the notice, or does not provide such temporary passage the portion of the road so damaged, or whereon the bridge or culvert so damaged or destroyed existed, shall be deemed to be out of repair, and the Inspector shall thereupon give to the company a notice in the manner provided in section 44.

Suspension of right to tolls.

(4) The notice shall state that the time fixed for the repair of the portion of the road, or of the bridge or culvert, or for the reconstruction of such bridge or culvert, or for the making of the temporary passage has expired, and that the repairs or reconstruction have not been completed, or that the temporary passage has not been made and that henceforth, until the repairs or reconstruction have been fully completed, the company shall not demand or take tolls at the gate or gates at or on either side of the portion or portions of the road, bridge or culvert so out of repair or being reconstructed, under the penalties imposed by the next succeeding section. 2 Geo. V. c. 50, s. 46.

Penalty for taking toll when the road is out of repair.

47. If, after the expiration of the time limited in the notice or permission referred to in section 44, or the notice referred to in the next preceding section, and before the required repairs have been completed, any person, acting as a keeper of such toll-gate, demand or takes toll or refuses to allow a person travelling to pass through the toll-gates without payment thereof he shall incur a penalty of not less than \$1 or more than \$4 for every such offence. 2 Geo. V. c. 50, s. 47.

ASSUMPTION OF ROAD BY COUNTY.

Assumption by county on expiration of time fixed for repair.

48. If the company permits or allows the road to remain out of repair for nine months after the time fixed by the Inspector for the repair of the same the company shall forfeit all right to the road, and the municipal council of the county, through which the road or any part thereof passes, may assume, and may enter upon and take possession of the

same, and exercise the same jurisdiction over it as the company was entitled to, and the council may repair the same in accordance with the notice of the Inspector; and, after the repairs have been made, may collect tolls thereon and shall possess and enjoy all the rights and powers and be subject to all the duties and requirements of this Act in reference to such road. 2 Geo. V. c. 50, s. 48.

49. If the council of the county does not, within the period of one month next after the expiration of such nine months, by by-law assume the road it shall become a public highway repairable as is provided by *The Municipal Act*. 2 Geo. V. c. 50, s. 49. If not assumed by county to become a public highway. Rev. Stat. c. 192.

50. Nothing in this Act shall authorize the Inspector to require alteration in the grades of a road or of the materials of which a bridge is constructed unless the bridge is otherwise out of repair, except so far as may be incidentally necessary in making repairs; but this section shall not relieve the company from any obligation in respect of grades. 2 Geo. V. c. 50, s. 50. Alterations in grades.

ENFORCING REMOVAL OF SNOW.

51.—(1) Upon the written requisition made during the months of December, January, February or March by six freeholders residing within one mile of a road the engineer of the county shall inspect such road, and if he finds that, by reason of the accumulation of snow or ice thereon, the road has become so obstructed that persons cannot safely and conveniently travel thereon with horses and vehicles, and has been so obstructed for one week, he shall give notice to the company that until the snow is removed or levelled as required by such notice no toll shall be taken upon such road, or at the gates thereon specified in the notice; and thereafter no tolls shall be taken upon such road or at such gates until the engineer has given his certificate in writing that the snow has been so removed or levelled in compliance with his order. Enforcing the levelling or removal of snow on toll roads. Notice by engineer. Suspension of tolls while snow unremoved.

(2) The engineer, after giving the notice, shall, when required in writing by the company, make an inspection of the road, and if he finds that his order has been complied with shall give the certificate mentioned in the next preceding subsection. Engineer's certificate of removal.

(3) The notice may be served in the manner mentioned in section 44. 2 Geo. V. c. 50, s. 51. Service of notice.

SALE OF ROADS UNDER EXECUTION.

52.—(1) The right and interest of a company in or to a road, or any part of it, may be sold under execution against the company. The interests of companies may be sold under execution.

Payment to
municipal
corporation
for outlay.

(2) The purchaser at such sale may, at any time within two years from the time of the sale, reimburse and pay to the municipal corporation which has made any outlay for the repair and maintenance of the road or the part so purchased the amount expended by it; and thereupon the head of the council of such municipality shall give to the purchaser a certificate to that effect under his hand and the seal of the corporation.

Right to
collect tolls
vested in
purchaser.

(3) Upon the registration of the certificate in the proper registry or land titles office the road, or the part so purchased, shall become vested in and be the property of the purchaser, and the provisions of sections 48 and 49 shall thenceforth cease to apply to or in respect of the road, or the part so purchased, and the purchaser shall have the same right to collected tolls and all such other rights and privileges and be subject to the same duties and obligations in respect to the road, or the part so purchased, as if the sale had taken place before the right to collect tolls had been suspended.

Forfeiture to
municipality.

(4) Unless the purchaser, within twelve months after he has paid to the municipal corporation the amount of the outlay, causes the road, or such portion as is out of repair, to be put in a proper state of repair, and procures the certificate of the Inspector that the same has been done, and thereafter keeps the road, and every portion thereof, in a proper state of repair, the purchaser shall forfeit his property in the road, or in the part thereof so purchased by him, and the same shall again become vested in the corporation of the municipality or municipalities as if this section had not been enacted. 2 Geo. V. c. 50, s. 52.

Application
of s. 52.

53. The next preceding section shall apply to all roads, or portions of roads, the outlay upon which was, before the 29th day of March, 1873, reimbursed and paid to the municipal corporation, as provided in subsection 2 of section 52. 2 Geo. V. c. 50, s. 53.

Obligation of
purchasers to
keep roads
in repair.

54. Any purchaser of a road, or any portion of a road, who has heretofore reimbursed and paid to any municipal corporation the amount of outlay, as provided by the Acts heretofore in force, and has complied with the provisions thereof, shall keep the road, and every portion thereof, in a proper state of repair, and, in case of failure to do so, shall forfeit his property in the road, or in the portion thereof so purchased by him, and the same shall again become vested in the corporation of the municipality or municipalities as if this section had not been enacted. 2 Geo. V. c. 50, s. 54.

OFFENCES AND PENALTIES.

Red light on
gates when
closed.

55. Every owner, lessee, or person having control of any road or bridge upon which tolls are collected shall cause a bright red light to be displayed upon every gate or toll bar on such road whenever the gate or bar is closed, between sun-

set and sunrise, and in default shall be liable for the damages ^{Liability.} sustained by any person by reason of such default, and shall also incur a penalty of not less than \$5 and not more than \$20 for every such offence. 2 Geo. V. c. 50, s. 55. ^{Penalty.}

56.—(1) Any lessee or collector of tolls who takes a ^{Penalty for} greater toll than is authorized by law shall, for every such ^{taking more} offence, incur a penalty of \$20. ^{than the pro-} ^{per toll.}

(2) The penalty shall be payable to the complainant if he ^{Application} is the person from whom excessive toll was taken, and where ^{of penalty.} he is not the person from whom excessive toll was taken one-half of the penalty shall be payable to the complainant and one-half to such person. 2 Geo. V. c. 50, s. 56.

57. If any person, not exempted by law from paying toll, ^{Penalty for} wilfully passes, or attempts to pass, any toll-gate, check-gate ^{passing or} or side-bar lawfully established without first paying the legal ^{attempting to} toll he shall incur a penalty not exceeding \$20. 2 Geo. V. ^{pass gates,} c. 50, s. 57. ^{etc., without} ^{payment of} ^{toll.}

58.—(1) If any person, subject or liable to the payment ^{Mode of en-} of any toll, neglects or refuses, after demand thereof, to pay ^{forcing pay-} the same the person authorized to collect such toll may by ^{ment of tolls} himself, or taking such assistants as he thinks necessary, ^{in case of} seize or distrain any horse, cattle, vehicle, or other thing in ^{refusal to} respect of which such toll is payable, together with their ^{Seizure.} respective bridles, saddles, gear, harness or accoutrements, (except the bridle or reins of any horse or other animal separate from such horse or animal) or any vehicle in respect of the horses or animals drawing the vehicle on which such toll is payable, or any of the goods and chattels of the person so required to pay.

(2) If the toll and the reasonable charges of such seizure ^{Sale in} and distress are not paid within four days after such seizure ^{default of} and distress the person so seizing and distraining, after hav- ^{payment.} ing given four days' public notice thereof, may sell the horse, animal, cattle, vehicle and things so seized and distrained, or a sufficient part thereof, returning to the owner, upon demand, the overplus, if any, and what remains unsold after such tolls and the reasonable charges occasioned by the seizure, distress and sale have been deducted. 2 Geo. V. c. 50, s. 58.

59. Any person who, after proceeding on a road with any ^{Penalty on} vehicle or animal in respect of which toll is payable, turns ^{persons} out of the road for the purpose of avoiding the payment of ^{using a road} toll and enters upon the road beyond any of the gates or ^{and turning} check-gates by crossing the road or otherwise without pay- ^{off the same} ing toll, whereby the payment of toll is evaded, shall for ^{in order to} every such offence incur a penalty of \$4. 2 Geo. V. c. 50, ^{avoid pay-} s. 59. ^{ment of toll.}

Owner allow-
ing persons
to evade tolls
by passing
over his
lands.

60. Any person who, with intent to aid in the evasion of the payment of toll, knowingly permits or suffers any other person proceeding on a road to pass through any land adjoining such road and occupied by such first mentioned person, or through any gate thereon with any vehicle or animal in respect of which toll is payable, for the purpose of enabling the person so proceeding on such road to pass through such land and to enter upon such road beyond any of the gates or check-gates and to proceed thereon without paying toll, and thereby evade payment of the toll, shall incur a penalty of \$4. 2 Geo. V. c. 50, s. 60.

Penalty on
persons leav-
ing horses,
etc., on the
road so as to
avoid payment
of toll.

61. Any person who leaves upon a road any vehicle or animal by reason whereof the payment of any toll is evaded or lessened, or takes off any animal from any vehicle, either before or after having passed through any toll-gate, or, after having passed through any toll-gate, adds or puts any animal to any such vehicle and draws therewith upon any part of any such road so as to increase the number of animals drawing the vehicle after the same has passed through such toll-gate, whereby the payment of all or any of the tolls has been evaded, shall incur a penalty of \$4. 2 Geo. V. c. 50, s. 61.

Penalty on
persons
falsely
claiming
exemption.

62. Any person who falsely represents himself to any toll-collector or gate-keeper as being entitled to any exemption mentioned in this or any other Act, or evades the payment of toll by any false representation or other fraudulent act, shall incur a penalty of \$4. 2 Geo. V. c. 50, s. 62.

63. Any person who—

Penalty on
persons re-
moving ma-
terials used in
constructing
road.

(a) Removes any earth, stone, timber or other material, used, or intended to be used, in or upon any road for the construction, maintenance or repair thereof; or

Or driving
off the metal
and on the
soft part of
the road.

(b) Drives any loaded vehicle upon that part of any road, constructed under this or any former Act, between the stones, or hard road and the ditch, further than may be necessary in passing another vehicle, or in turning off or upon such road; or

Damaging
bridges, etc.

(c) Causes any injury or damage to be done to the bridges, culverts, posts, rails or fences; or

Hauling
timber, etc.,
so as to injure
the road.

(d) Hauls or draws upon any part of any such road any timber, stone or other thing carried principally or in part upon a vehicle so as to drag or trail upon such road to the prejudice thereof; or

Leaving any
carriages on
the road.

(e) Leaves any vehicle upon such road without some proper person in the custody or care thereof longer than is necessary to load and unload the same, except in case of accident, and in cases of accident for any longer time than is necessary to remove the same; or

- (f) Places any timber, stones, rubbish or other thing upon the road to the prejudice, interruption or danger of any person travelling thereon; or Laying timber, stones, rubbish.
- (g) Having blocked or stopped any vehicle in going up a hill or rising ground causes or suffers to remain on such road any stone or other thing with which such vehicle was blocked or stopped; or Leaving stones in the road used to block carriage.
- (h) Pulls down, damages, injures or destroys any lamp or lamp-post erected or placed in or near the side of such road, or any toll-house erected on such road, or wilfully extinguishes the light of any such lamp; or Injuring lamp posts, etc.
- (i) Wilfully pulls down, breaks, injures or damages any table of tolls put or fixed at any gate, check-gate or bar on any part of such road, or any sign-board erected upon any road or bridge; or Damaging table of tolls, etc.
- (k) Wilfully or designedly defaces or obliterates any of the letters, figures or marks thereon or on any finger post or mile post or stone; or Defacing mile posts, etc.
- (l) Throws any earth, rubbish or any other matter or thing into any drain, ditch, culvert, or water-course made for draining any such road; or Throwing rubbish into drains.
- (m) Without permission carries away any stones, gravel, sand or other materials, dirt or soil, from any part of such road, or digs any holes or ditches on the allowance for the same; or Carrying away any stones, gravel, etc.
- (n) Allows any swine to run at large to the injury of the road; Allowing swine to run at large.

shall incur a penalty of not less than \$1 nor more than \$10, and shall in addition be liable for the damages sustained by the company for any such act. 2 Geo. V. c. 50, s. 63.

64.—(1) No company, or contractor, or sub-contractor, and no person employed by them or any of them, shall leave or place upon the graded part of any road, whether it is or is not macadamized or gravelled, any stone, gravel, timber or other material so as to prevent the public from using or to impede the free use of the whole of such graded portion of the road. Company's duty not to impede the free use of the whole graded portion of the road.

(2) For every contravention of this section such company, contractor or sub-contractor, or other person shall incur a penalty of not less than \$1 nor more than \$20, and shall in addition be liable for the damages sustained by any person by such act. 2 Geo. V. c. 50, s. 64. Penalties.

65. The penalties imposed under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*, and unless otherwise provided, shall, when recovered, be paid to the company. 2 Geo. V. c. 50, s. 65. Recovery of penalties. Application. Rev. Stat. c. 90.

Limitation of actions.

66. No action shall be brought for any thing done in pursuance of this Act unless such action is brought within six months next after the fact committed. 2 Geo. V. c. 50, s. 66.

MISCELLANEOUS.

Annual report to Minister and to county council.

67.—(1) Every company, in the month of January in each year, shall report to the Minister of Public Works, and also to the municipal council of the county having jurisdiction within the locality through or along the boundary of which the road passes, or wherein the other work has been constructed—

Cost of road.

(a) The cost of the road or work;

Amount expended.

(b) The amount of all money expended;

Capital stock.

(c) The amount of the capital stock and how much paid in;

Tolls expended.

(d) The whole amount of tolls expended on the road or work;

Receipts.

(e) The amount received during the year from tolls and all other sources, stating each separately;

Dividends.

(f) The amount of dividends paid;

Repairs.

(g) The amount expended for repairs; and

Debts.

(h) The amount of debts due by the company, specifying the object for which such debts were incurred.

Verification of.

(2) The return required by this section shall be verified by a statutory declaration of one of the directors of the company.

Penalty.

(3) A company which contravenes the provisions of this section shall incur a penalty of \$50 for each contravention, and an additional penalty of \$25 for each month during which the company neglects to make such return, recoverable by the Treasurer of Ontario by action in any court of competent jurisdiction. 2 Geo. V. c. 50, s. 67.

Books of account.

68.—(1) Every company shall keep regular books of account in which shall be entered a correct statement of the assets, receipts and disbursements of the company.

Inspection.

(2) Such books shall at all times be open to the inspection of the Inspector and of any person appointed for that purpose by the council of the municipality in which the road or part thereof is situate.

Duty to afford information.

(3) The Inspector, and every person so appointed, may take copies of or extracts from the books, and may require from the keeper of such books, and also from the president and each of the directors of the company, and from all the other officers and servants thereof, all such information as to

such books and the affairs of the company generally as he may deem necessary for the full and satisfactory investigation into and report upon the affairs of the company. 2 Geo. V. c. 50, s. 68.

69. The council of a municipality through which a road runs, or the owner of any land lying adjacent to the road, may set out shade and ornamental trees along the side of the road in the same manner and with the same rights as if the road were an ordinary highway. 2 Geo. V. c. 50, s. 69.

Right to set out shade trees.

70. The council of a municipality through which the road runs, or any person, by the permission and direction of the council, may grade, level, cut down or fill up the land along the side of the road, and may construct sidewalks thereon if the road were an ordinary road or street. 2 Geo. V. c. 50, s. 70.

Rights in respect of bordering land.

Sidewalks.

71. The council of a municipality through which any road runs, may, without being liable to make compensation to the company, make stone, wood or other crossings on the road, and may dig up the road for the purpose of making sewers, and may construct water courses across or along the side of the road, and culverts and approaches over water courses or ditches crossing or along the side of the road from streets, lanes or buildings, and may raise or lower the road or change the grade thereof when necessary to connect with other roads or streets, and shall have all other rights and privileges with regard to side-walks, culverts and approaches to the road as if the same were an ordinary highway or street; but the council shall in every such case, without unnecessary delay, replace the road in as good condition as it was before such work was undertaken. 2 Geo. V. c. 50, s. 71.

Rights of municipality.

(As to obligation of municipality to repair crossings, etc., see section 461 of The Municipal Act, Rev. Stat. c. 192.)

72. The last preceding three sections of this Act shall apply to, and be held binding on, any lessee or any owners of such road, whether a joint stock company or otherwise. 2 Geo. V. c. 50, s. 72.

Application of ss. 69 to 71.

73.—(1) The provisions contained in section 10 to 18, 19, 22 to 26, 28 to 30, and 33 to 68 shall extend and apply to all road companies, and to all toll roads whereon tolls are levied and collected, whether such roads may have been constructed under this Act or under any former general Act relating to joint stock road companies or have been constructed by or belong to the corporation of any county, and to all toll roads which may have been purchased from the Government of the late Province of Canada and are owned or held by private companies or municipal councils, and also to all

Provisions applicable to all companies and to all toll roads.

toll roads owned, leased, held or in the possession of any person or persons.

Provisions applicable to company with special charter.

(2) The provisions contained in sections 12 to 18, 19, 22, 28, 32, 33, 37 to 41, and 42 to 68, and this provision, shall extend to road companies having any special charters, but no other sections of this Act shall apply to such companies. 2 Geo. V. c. 50, s. 73.

Bridges over 20 feet to be approved by Minister.

74. No new bridge over twenty feet in length shall be erected upon any road until the plans and specifications for such class of bridge shall have been approved by the Minister of Public Works. 2 Geo. V. c. 50, s. 74.

PART II.

PURCHASE AND EXPROPRIATION.

Interpretation.

75. In this Part,

"Owner"

(a) "Owner" shall include any person, company or municipal corporation having any legal, equitable or other estate or interest in a toll road;

"Road"

(b) "Road" shall mean a toll road, and shall include any land or easement in any land and any toll house or other building thereon used for the purposes of the road, and the franchise of the owner of the road and any bridge, pier or wharf connected therewith. 2 Geo. V. c. 50, s. 75.

Where road wholly in township, or in one or more local municipalities in same county.

76. Where a road lies wholly within a township the council of the township, and where a road lies wholly within one or more local municipalities in the same county, the council of the county may pass a by law for the purchase or expropriation of the road, and if the council and the owner of the road are unable to agree as to the price or compensation to be paid for the road the same shall be determined by arbitration under *The Municipal Act*. 2 Geo. V. c. 50, s. 76.

Rev. Stat. c. 192.

Where road in different counties or where some municipality specially interested.

77.—(1) Where a road lies partly in one or more local municipalities in a county and partly in a city, separated town, or in one or more local municipalities in another county, or where a road lies wholly within the county and a city or separated town therein or a city, separated town or township in an adjoining county is by reason of heavy travel over the road thereto or therefrom interested in the purchase of the road and the abolition of the tolls, the council of the first mentioned county may pass a by-law for the purchase or expropriation of such road, and if the council of the initiating county and the owner of the road are unable to agree as to the prices or compensation to be paid therefor the same shall be determined by arbitration under *The Municipal Act*.

Rev. Stat. c. 192.

(2) Where the council of the initiating county and the council of the city, separated town or township or other county are unable to agree as to the proportions of the price or compensation to be paid by them respectively the same shall be determined by arbitration under *The Municipal Act*. Arbitration as to proportions of purchase money. Rev. Stat. c. 192.

(3) If, in the case of the acquisition of a road lying wholly within the initiating county, the arbitrators are of the opinion that the city, separated town or township is not, by reason of heavy travel thereto or therefrom over the road, interested in the purchase of the road and the abolition of the tolls they shall not award that any part of the price or compensation be paid by the corporation of the city, separated town or township. 2 Geo. V. c. 50, s. 77. Where compensation is not to be awarded.

78. If the owner of the road is a corporation it may, with the consent of a general meeting of the shareholders called for the purpose, agree with the council as to the price to be paid for the road and the terms of payment, or appoint an arbitrator to determine the compensation to be paid. 2 Geo. V. c. 50, s. 78. Where owner a corporation.

79. In the case of expropriation, except as herein otherwise provided, the provisions of *The Municipal Act* as to compensation for lands taken or injured shall apply. 2 Geo. V. c. 50, s. 79. Compensation, how determined.

80. In the cases provided for by section 76, if the road is not taken and paid for within one year after the publication of the award, the expropriating by-law shall be deemed to be repealed, and the corporation, by the council of which it was passed, shall pay to the owner of the road his costs of and incidental to the arbitration and award, including the arbitrators' fees, if they have been paid by him. 2 Geo. V. c. 50, s. 80. Limitation of time for purchase, under s. 76.

81. In the cases provided for by section 77 if the council of the initiating county, within one year after the publication of the award, elect that the road shall not be taken the corporation shall pay to the owner of the road his costs of and incidental to the arbitration and award, including the arbitrators' fees, if they have been paid by him. 2 Geo. V. c. 50, s. 81. Limitation of time for purchase, under s. 77.

82. The council of a corporation which has purchased or expropriated a road, under the provisions of sections 76 or 77, may pass a by-law for borrowing the amount required to pay the purchase or compensation money for any period not exceeding 30 years, and it shall not be necessary that the by-law shall be submitted for or receive the assent of the electors. 2 Geo. V. c. 50, s. 82. Power of purchasing municipality to borrow for purchase money.

Power of
initiating
county
and other
municipalities
to borrow
purchase
money.

83. The council of the initiating county and of the city, separated town, township or other county, in case the road has been purchased or expropriated under the provisions of subsection 1 of section 77, may respectively pass by-laws for borrowing the amount required to pay the corporation's share of the purchase or compensation money for any period not exceeding 30 years, and it shall not be necessary that any such by-law shall be submitted for or receive the assent of the electors. 2 Geo. V. c. 50, s. 83.

Bonus to local
municipality
not materially
or only slightly
benefited.

84. Where the corporation of a county which has purchased or expropriated a road under the provisions of this Part, or which is liable, under the provisions of section 77, to pay a part of the purchase or compensation money to be paid for a road purchased or expropriated under the provisions of that section, is of opinion that any local municipality in the county is not materially or is only slightly benefited by the acquisition of the road or the abolition of the tolls thereon, the corporation of the county may pay to the corporation of such local municipality such sum by way of bonus as the council may deem sufficient to equalize the burden imposed on it by the acquisition of the road, or in the alternative where the road is situated in but one or in a small number of the municipalities in the county, or where some of the municipalities are not, in the opinion of the council, interested in the acquisition of the road or the abolition of the tolls thereon, such council may by the by-law apportion the indebtedness to be created by the by-law between the local municipalities in the county as the council may deem just, and may provide that the portion of the indebtedness to be borne by each of the municipalities, as so apportioned, and the interest thereon, shall be provided for by a special rate on the rateable property in such municipality, or the council may, in its discretion, equalize the burden by granting a bonus to any such municipality as the council may deem best. 2 Geo. V. c. 50, s. 84.

How bonus
to be
provided.

85. Where the council determines to grant a bonus to a municipality under the provisions of the next preceding section the council may provide that the amount of the bonus shall be added to the sum to be borrowed to pay the purchase or compensation money or the portion of it which the county is to pay in the cases provided for by section 83. 2 Geo. V. c. 50, s. 85.

Statement of
amounts to be
levied.

86. The clerk of the county council shall, on or before the 31st day of December in each year, transmit to the clerk of each local municipality a written statement of the amount to be levied by it during the next ensuing year for the purpose of providing the amount necessary to meet the annual payments provided for by the by-law, and the council of such municipality shall levy the amount accordingly and

pay over the same when collected to the treasurer of the county. 2 Geo. V. c. 50, s. 86.

ABOLITION OF TOLLS.

87. Subject to the provisions of the next following section where a road is acquired by a corporation, under the provisions of this Part, the road shall thereafter be free of toll and shall be a common and public highway, and shall be kept in repair by the corporation. 2 Geo. V. c. 50, s. 87. Generally.

88. The council of the county or of the township, which has acquired the road, may defer the abolition of tolls for a period of not more than ten years, and may, during that time, apply the proceeds of the tolls towards the payment of the debentures issued under the authority of this Part, and in the case of a township the road shall be kept in repair by the corporation of the township, and in the case of a county shall be kept in repair by the local municipalities in the county in which the road is situate, or by such of them as the council of the county shall, by by-law, determine and prescribe. 2 Geo. V. c. 50, s. 88. Deferring abolition for not more than ten years.

89. Where a road is owned by the corporation of a township within which it is situate the council of the township shall, within three months after the receipt of a petition, signed by 50 municipal electors, requiring it so to do, pass a by-law fixing a date not later than ten years from the passing of the by-law, upon which the collection of tolls shall cease. 2 Geo. V. c. 50, s. 89. By-law to fix date for abolition of tolls.

90. The council may, before the passing of the by-law, submit it, or the question of passing such a by-law, for the assent of the electors, and, if their assent is not obtained, the council shall not be bound to pass the by-law. 2 Geo. V. c. 50, s. 90. Assent of electors.

91. Where a by-law has been passed, under the provisions of the next preceding two sections, all tolls thereafter collected shall be paid over monthly to the treasurer of the municipality, and shall be applied to the maintenance of roads within the municipality as the council may by by-law direct. 2 Geo. V. c. 50, s. 91. Collection and application of tolls meanwhile.

92.—(1) When a road has been acquired by a county, under the provisions of this Part, and the tolls thereon have been removed, tolls shall not be collected from any part of the road which lies within the limits of a city or separated town, and thereafter the road, so far as it lies within the county, shall be under the jurisdiction of the county council within the meaning of *The Municipal Act*. Cesser of tolls on part within city or separated town.
Rev. Stat. c. 192.

Right of
local muni-
cipality to
acquire any
part of road
within or
adjoining
same.

(2) The corporation of any town, not separated from the county, township or village within the county may, with the consent of the corporation of the county, purchase, take over or otherwise acquire such road or the part of it lying within or adjoining such town, township or village, and may provide for the payment of the purchase money out of the general funds of the corporation; and the road so acquired shall be a common and public highway and shall be kept in repair by the corporation of the municipality by which it is acquired. 2 Geo. V. c. 50, s. 92.

CHAPTER 211.

An Act respecting Snow Fences.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Snow Fences Act*. · 2 Geo. Short title.
V. c. 52, s. 1.

2.—(1) The council of every township, city, town and village may pass by-laws requiring the owners or occupiers of land bordering upon a public highway to take down, alter or remove any fence which causes an accumulation of snow or drift so as to impede or obstruct travel. Powers of councils to require removal of fences.

(2) The council shall make such compensation to the owners or occupants for the taking down, alteration or removal of such fence and for the construction in lieu thereof of some other description of fence, approved of by the council, as may be mutually agreed upon; and in default of agreement the compensation shall be determined by arbitration, and three fence-viewers appointed by the council shall be the arbitrators. 2 Geo. V. c. 52, s. 2. Making compensation therefor.

3.—(1) If the owner or occupant refuses or neglects to take down, alter or remove the fence as required by the council, the council, after the expiration of two months from the time the compensation has been agreed upon or determined by arbitration, may take down, alter or remove such fence, and may construct the fence which has been approved of by the council, and the amount of all costs and charges thereby incurred by the council, over and above the amount of compensation, may be recovered from such owner or occupant by action in any Division Court having jurisdiction in the locality, and the amount of the judgment, if not sooner paid, shall be placed by the clerk of the municipality upon the collector's roll against the land upon or along the boundaries of which the fence is situate, and shall be collected as other taxes. Power in case of neglect or refusal by owner or occupant.

(2) Where an occupant, other than the owner, is required to pay such sum, or any part thereof, he may deduct it, and any costs paid by him, from the rent payable by him, or may otherwise recover the same unless he has agreed with the landlord to pay it. Right of occupant to deduct amount paid from rent.

(3) The arbitrators shall examine the premises and shall, if required, hear evidence. Duties of arbitrators.

Fees.

(4) The arbitrators shall be entitled to \$2 a day, which shall be paid by the corporation of the municipality if the amount of the award exceeds the amount offered by the corporation, otherwise by the owner or occupant.

Appeal.

(5) The award shall be filed in the office of the clerk of the municipality, and an appeal shall lie therefrom to the Judge of the County or District Court of the County or District.

Rev. Stat.
c. 259
to apply.

(6) The provisions of *The Line Fences Act* shall *mutatis mutandis* apply to such appeal. 2 Geo. V. c. 52, s. 3.

Power to
enter on
lands.

4.—(1) Every such council may, on and after the 15th day of November in each year, enter into and upon any lands of His Majesty, or of any corporation or person, situate within the municipality and lying along any public highway in or adjoining any such municipality, and may erect and maintain snow fences thereon, subject to the payment of such damages, if any, as may be suffered by the owner or occupant of the land so entered upon, the amount thereof to be ascertained, if not mutually agreed upon, by arbitration as provided in section 2.

Removal.

(2) The snow fences so erected shall be removed on or before the first day of April following. 2 Geo. V. c. 52, s. 4.

CHAPTER 212.

An Act to authorize and regulate the use of Traction Engines on Highways.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Traction Engines Act*. Short title.
2 Geo. V. c. 53, s. 1.

2. Traction engines, not exceeding twenty tons in weight, ^{Limit of weight.} may be used upon any highway subject to the provisions hereinafter contained. 2 Geo. V. c. 53, s. 2.

GENERAL CONDITIONS.

3. The speed of a traction engine shall at no time, in cities, ^{Speed.} towns and villages, exceed the rate of three miles an hour, or elsewhere the rate of six miles an hour. 2 Geo. V. c. 53, s. 3.

4. The width of the driving wheels of all such engines ^{Width of wheels.} shall be at least twelve inches, and the wheels of the trucks or waggon drawn thereby shall be at least four inches in width for the first two tons capacity, load and weight of truck included, and at least an additional half inch for each additional ton. 2 Geo. V. c. 53, s. 4.

(*Note.*—As to other precautions to be taken when travelling on highways see *The Highway Travel Act*, Rev. Stat. c. 206.)

(As to the right of cities and towns to prohibit the use of traction engines on certain streets see *The Municipal Act*, Rev. Stat. c. 192, s. 400, par. 49.)

BRIDGES TO BE STRENGTHENED.

5.—(1) Before it shall be lawful to run such engine over any highway whereon no tolls are levied the person proposing to run the same shall, at his own expense, strengthen all bridges and culverts to be crossed by such engine, and keep the same in repair so long as the highway is so used. ^{Strengthening bridges, etc.}

(2) The cost of such repairs shall be borne by the owners of different engines in proportion to the number of engines ^{Owners of different engines to contribute.} run over such bridges or culverts.

Certain
threshing
engines not
affected.

(3) The two preceding subsections shall not apply to engines of less than ten tons in weight used for threshing purposes or for machinery for the construction of roadways.

Planks to be
laid on surface
of bridge.

(4) Before crossing any such bridge or culvert the person proposing to run any traction engine shall lay down on such bridge or culvert planks of sufficient width and thickness to fully protect the flooring or surface of such bridge or culvert from any injury that might otherwise result thereto from the contact of the wheels of such engine; and in default thereof the person in charge and his employer, if any, shall be liable to the corporation of the municipality for all damage resulting to the flooring or surface of such bridge or culvert. 2 Geo. V. c. 53, s. 5.

SPECIAL PROVISIONS AS TO TOLL ROADS.

Notice before
use of roads.

6. Before any traction engine is run over a toll road the person proposing to run the same shall leave a notice in writing to that effect with the keeper of any tollgate on such road at least two months previous to the running of such engine, and the notice shall also contain a correct statement of the weight of the heaviest engine proposed to be used. 2 Geo. V. c. 53, s. 6.

Strengthening
bridges, etc.

7. The owner of such toll road, within two months after the delivery of such notice and upon receiving security for the cost of the improvements required, may cause all bridges and culverts upon the road to be so strengthened as, in the opinion of the Inspector of Toll Roads, will render them safe for the constant passing of such engines. 2 Geo. V. c. 53, s. 7.

Rights of
owners of
engines on
default.

8.—(1) If the owner of such toll road neglects or refuses to comply with the requirements of the next preceding section the person proposing to run such engine may do the necessary work at his own expense, and his outlay shall be repaid to him by the remission of tolls upon the passage of his engines, trucks and waggons through the gates upon such road until the whole of such outlay is repaid.

Approved by
Inspector.

(2) The work shall be performed to the satisfaction of the Inspector of Toll Roads. 2 Geo. V. c. 53, s. 8.

Tolls.

9. The owner of such toll road may levy such tolls as may be imposed by him upon the passage of any engine, truck or waggon through every lawful gate; and if the owner of the engine is dissatisfied with the rate of toll the same shall be determined by the Inspector of Toll Roads. 2 Geo. V. c. 53, s. 9.

Collection
of tolls.

10. The owner of the road may enforce the payment of such tolls in the manner provided by law for the collection of ordinary tolls upon such road. 2 Geo. V. c. 53, s. 10.

PENALTIES.

11. Every person who contravenes any of the provisions of this Act shall incur a penalty of not less than \$5 or more than \$25, recoverable under *The Ontario Summary Convictions Act*. 2 Geo. V. c. 53, s. 11. Penalty for contravening Act. Rev. Stat. c. 90.

12. The penalties when collected shall be paid over to the treasurer of the local municipality in which the offence was committed. 2 Geo. V. c. 53, s. 12. Application of penalties.

13. No penalty or imprisonment shall be a bar to the recovery of damages by an injured person. 2 Geo. V. c. 53, s. 13. Right to damages reserved.

CHAPTER 213.

An Act to encourage the Planting and Growing of Trees.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Tree Planting Act*.
3-4 Geo. V. c. 53, s. 1.

Planting trees
on highways,
etc.

2.—(1) The owner of land adjacent to a highway, lane, alley, place or square may plant trees on the portion thereof contiguous to his land; but no tree shall be so planted that the same is or may become a nuisance or obstruct the reasonable use of a highway or other public thoroughfare.

Property in
trees planted
by owners.

(2) Every tree so planted shall be the property of the owner of the land adjacent to such highway, lane, alley, place or square and nearest to such tree.

Trees on
boundary
lines.

(3) An owner of land may, with the consent of the owner of the adjoining land, plant trees on the boundary between such lands, and every such tree so planted shall be the common property of such owners.

Property in
shade and or-
namental
trees.

(4) Every growing tree, shrub or sapling planted or left standing on either side of a highway for the purposes of shade or ornament shall be the property of the owner of the land adjacent to the highway and nearest to such tree, shrub or sapling. 3-4 Geo. V. c. 53, s. 2.

Municipal
by-laws for
granting tree
bonuses.

3.—(1) The council of any municipality may pass a by-law for paying a bonus not exceeding twenty-five cents for every ash, basswood, beech, birch, butternut, cedar, cherry, chestnut, elm, hickory, maple, oak, pine, sassafras, spruce, walnut or whitewood tree, planted, under the provisions of this Act, within such municipality on any highway or on any boundary line or within six feet of such boundary line.

Inspector of
trees.

(2) The by-law shall provide for the appointment of an Inspector of trees so planted, for their due protection against injury or removal by any person, including the owner, without the authority of a resolution of the council, and for the conditions on which the bonus may be paid. 3-4 Geo. V. c. 53, s. 3.

4.—(1) Not less than thirty municipal electors in a police village may petition the council of the township praying for the passing of a by-law under section 3 to have effect within the limits of the police village, and on receipt of such petition the council may pass a by-law giving effect to it.

Petition for
passing
by-law.

(2) The trustees of such police village shall appoint the Inspector of trees provided for by the by-law, and the amount required for the payment of the bonuses for tree planting under the by-law, and the remuneration of the Inspector shall be raised by a rate upon the assessment for real property, income and business and other assessments in such police village in the manner provided by *The Municipal Act*.

Appointment
of Inspector.

Rev. Stat.
c. 132.

5.—(1) The Inspector shall make to the council one report for each year, if required so to do, giving the names of all persons entitled to any bonus under the by-law, the number of trees of each species planted and the amount of bonus to which each person is entitled, and certifying that the trees have been planted for a period of three years and that they are alive, healthy and of good form; and upon the adoption of such report the bonus shall be paid.

Report of In-
spector on
state of trees.

(2) The corporation shall not be liable to pay a larger sum in respect of trees planted under this Act than would be payable if the same had been planted at a distance of thirty feet apart, and in no case shall a bonus be granted where the trees are less than fifteen feet apart. 3-4 Geo. V. c. 53, s. 5.

Limitation of
amount of
bonus.

6.—(1) Any person who ties or fastens any animal to or injures or destroys a tree planted and growing upon a highway, lane, alley, place or square, or, if a bonus has been paid therefor, upon any boundary line between lands, or who suffers or permits any animal in his charge to injure or destroy or who cuts down or removes any such tree without having first obtained permission so to do by resolution of the council of the municipality shall incur a penalty not exceeding \$25, recoverable under *The Ontario Summary Convictions Act*.

Penalties for
injuring trees
on highways.

Rev. Stat.
c. 90.

(2) One half of such penalty shall go to the person laying the information and the other half to the corporation of the municipality within which such tree was growing.

Application
of penalty.

(3) Any person who ties or fastens any animal to or injures or destroys any tree growing for the purposes of shade or ornament upon a boundary line between lands or who suffers or permits any animal in his charge to injure or destroy or who cuts down or removes any such tree without the consent of the owners thereof shall incur the like penalty. 3-4 Geo. V. c. 53, s. 6.

Injuring trees
on boundary
lines.

Municipal
by-laws as to
planting and
removal.

7. The council of every municipality may pass by-laws to

- (a) regulate the planting of trees upon highways;
 - (b) prohibit the planting upon the highways of any species of trees which they may deem unsuited for that purpose;
 - (c) provide for the removal of trees planted on a highway contrary to the provisions of any such by-law.
- 3-4 Geo. V. c. 53, s. 7.

4. *LICENSING OF SHOWS AND CIRCUSES.*

CHAPTER 214.

An Act respecting Circuses and Travelling Shows.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Travelling Shows Act*. Short title.
1 Geo. V. c. 63, s. 1.

2. No menagerie, circus, wild west show, trained animal show or show of any kind whatsoever shall be exhibited at any place in Ontario unless the owner, proprietor, manager, agent or person in charge of such show first obtains a license for that purpose from the Treasurer of Ontario. 1 Geo. V. c. 63, s. 2. Circuses, etc., not to be exhibited without a license.

3. Every applicant for a license shall make and file in the office of the Treasurer a statutory declaration setting forth the number of days upon which the show is to be exhibited in Ontario and the localities in which the performances or exhibitions are to be held, and for such license shall pay in advance to the Treasurer the sums following for every day upon which the show is to be exhibited in Ontario:— License fee.

For every circus, menagerie, wild west show and not more than one side show, if travelling with over twenty cars	\$100.00
With twenty cars or less	50.00
For every trained animal show	15.00
For each additional side show	10.00

And for every other show such sum as may be determined by the Treasurer for every day upon which the show is licensed to be exhibited. 1 Geo. V. c. 63, s. 3.

4. If any such show is exhibited as part of an industrial exhibition or agricultural fair the applicant shall pay such license fee as the Treasurer may impose, but not in excess of the fees fixed by section 3 for the particular class of show, and the Treasurer may have regard to any special circum- License fee for certain shows to be fixed by Provincial Treasurer.

stances of the case and may if he deems it advisable impose a nominal fee. 1 Geo. V. c. 63, s. 4.

Power to
issue and
revoke
license.

5.—(1) Upon receiving the statutory declaration hereinbefore mentioned and upon payment of the license fee the Treasurer may, in his discretion, issue a license and may at any time revoke the same upon being satisfied that the show is made the occasion for violation of the law or that gambling or any game of chance has been carried on in connection therewith.

Refund on
revocation.

(2) In case of the revocation of a license the amount received for the same shall be refunded to the licensee, less the sum paid per day for every day during which exhibitions have been given under such license prior to the revocation thereof. 1 Geo. V. c. 63, s. 5.

Penalty for
unlicensed
exhibitions.

6. Any person in charge of a show, or the owner, proprietor, manager or person having control thereof, who exhibits the same or any part thereof without obtaining a license shall incur a penalty of not less than \$200 and not more than \$300 for every day upon which such show or any part thereof has been exhibited at any place in Ontario. 1 Geo. V. c. 63, s. 6.

License, when
municipal
corporation
to issue.

7. No municipal corporation shall issue a license to any show to which section 2 applies until the applicant produces a license from the Treasurer of Ontario authorizing the exhibition in the municipality, and any member or officer of a municipal corporation who is a party to the issue of a license in violation of the provisions of this section shall incur a penalty of \$20. 1 Geo. V. c. 63, s. 7.

Provincial
and Dominion
detectives
and constables
to have free
access to
all shows.

8.—(1) The members of the Ontario Provincial Police Force and the members of the Dominion Police Force shall have access free of all charge to all shows mentioned in section 2, and to every horse race, agricultural, horticultural or industrial exhibition, ball game, theatre or public gathering, and to the grounds, tents and buildings in which such shows, races, exhibitions and gatherings are held, during the hours in which the public are admitted thereto, and any person hindering, preventing or refusing such free access after any such officer has demanded admission and displayed his badge of office shall incur a penalty of not less than \$50 and not more than \$100, or in the discretion of the convicting magistrate may be imprisoned for any term not exceeding three months. 1 Geo. V. c. 63, s. 8.

Penalty.

Prosecu-
tions,
Rev. Stat.
c. 90.

9. The penalties imposed by this Act shall be recovered under *The Ontario Summary Convictions Act*. 1 Geo. V. c. 63, s. 9.

10. All penalties recovered under this Act, and all fees paid for licenses under the provisions of this Act, shall be paid over to the Treasurer of Ontario for the use of the Province. 1 Geo. V. c. 63, s. 10.

11. The license fees payable under this Act shall be in addition to any fees imposed by municipalities. 1 Geo. V. c. 63, s. 11.

Fees and penalties to be paid to Treasurer.

License fees to be in addition to fees of municipalities.

5. SALE OF INTOXICATING LIQUORS.

CHAPTER 215.

An Act respecting the Sale of Fermented or
Spirituuous Liquors.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PART I.—GENERAL.

Short title.

1. This Act may be cited as *The Liquor License Act*.
R.S.O. 1897, c. 245, s. 1.

INTERPRETATION.

Interpretation.

2. In this Act, or in the Forms,

"Board."

(a) "Board" shall mean the Board of License Commissioners appointed for any License District under the provisions of this Act; 6 Edw. VII. c. 47, s. 1 (1), *part*.

"County."

(b) "County" shall include a union of counties and a provisional judicial district; 6 Edw. VII. c. 47, s. 1 (1), *part*.

"Druggist."

(c) "Druggist" shall mean a duly qualified and registered pharmaceutical chemist; 61 Vict. c. 30, s. 1, *part*.

"Inspector."

(d) "Inspector" shall mean an Inspector of Licenses appointed for a License District under this Act; R.S.O. 1897, c. 245, s. 2, par. 9.

"Judge."

(e) "Judge" shall mean and include the Judge or Junior or Deputy Judge of the County or District Court of a county or district;

"Keeper."

(f) "Keeper" when used with respect to licensed premises shall mean and include the person to whom the license was issued or who is the holder of the license, and, where a license is held by a firm, shall mean and include the firm and every individual member thereof, and, where the license is held by an incorporated company, shall mean and

include the company and the manager, superintendent or other person in charge of the premises or responsible for the conduct of the business carried on therein; 6 Edw. VII. c. 47, s. 1 (1), *part*.

- (g) "License District" shall mean a city, county or electoral district or districts, or any part of an electoral district, or a union of parts of two or more electoral districts, as the Lieutenant-Governor in Council may by order direct; R.S.O. 1897, c. 245, s. 2, par. 6. "License District."
- (h) "Licensed premises" shall mean a warehouse, tavern or shop in respect to which a license under this Act has been granted and is in force, and shall include every room, closet, cellar, yard, stable, outhouse, shed and any other place whatsoever, of, belonging or in any manner appertaining to such warehouse, tavern or shop; 6 Edw. VII. c. 47, s. 1 (1). "Licensed premises."
- (i) "Liquor" shall include all spirituous and malt liquors, and all combinations of liquors and drinks and drinkable liquids which are intoxicating; R.S.O. 1897, c. 245, s. 2, par. 1. "Liquor."
- i. Any liquor which contains more than two and one-half per cent. of proof spirits shall be conclusively deemed to be intoxicating; 6 Edw. VII. c. 47, s. 1 (2). When liquor to be deemed intoxicating.
- (j) "Local Option By-law" shall mean a by-law passed under subsection 1 of section 137 or passed under section 18 of the Act passed in the fifty-third year of the reign of Her late Majesty Queen Victoria and chaptered fifty-six. "Local Option By-law."
- (k) "Magistrate" shall include a justice of the peace, two or more justices of the peace sitting and acting together and a police magistrate. *See* 6 Edw. VII. c. 47, s. 1 (1), *part*. "Magistrate."
- (l) "Minister" shall mean the member of the Executive Council, to whom, for the time being, is assigned the supervision of the administration of this Act; R.S.O. 1897, c. 245, s. 2, par. 8. "Minister."
- (m) "Polling subdivision" shall mean the polling subdivision as shown by the last revised voters' list for the municipality, in which licensed premises or the premises for which a license is sought are situated; R.S.O. 1897, c. 245, s. 2, par. 7. "Polling subdivision," meaning of.
- (n) "Shop license" shall mean a license for selling, by retail, liquor in shops, stores, or places other than taverns, in quantities of not less than three half-pints, or, if sold in unbroken packages, of not "Shop license."

less than one half-pint, at any one time, to any one person, and at the time of sale to be wholly removed and taken away, in quantities of not less than three half-pints or one half-pint at a time, as the case may be; R.S.O. 1897, c. 245, s. 2, par. 3.

"Tavern."

- (o) "Tavern" shall mean an hotel, inn or other public house of entertainment kept for the purpose of providing refreshment and accommodation, which shall include board and lodging, for the public; 6 Edw. VII. c. 47, s. 1 (1), *part*.

"Tavern license."

- (p) "Tavern License" shall mean a license for selling liquor in quantities not exceeding one quart for consumption only on the licensed premises in which it is sold; 3-4 Geo. V. c. 54, s. 1.

"Three half-pints."

- (q) "Three half-pints" shall, where bottled liquor is sold, be held to be equivalent to five quarter pints Imperial measure; R.S.O. 1897, c. 245, s. 2, par. 5.

DETERMINING POPULATION FOR PURPOSES OF ACT.

Population to be ascertained by last assessment roll.

3.—(1) Whenever in this Act reference is made to the number of the population of any municipality the number of such population shall be determined by the last assessment roll of the municipality as finally revised prior to the first day of April of the year in which it is necessary to determine the population. 6 Edw. VII. c. 47, s. 9 (1); 8 Edw. VII. c. 54, s. 5 (1).

In case of alteration since revision.

(2) In case of the alteration or formation of a municipality subsequent to the final revision of such assessment roll, the population of such municipality for the purposes of this Act may be ascertained by reference to the enumeration on which such municipality was so altered or formed. 6 Edw. VII. c. 47, s. 9 (2); 8 Edw. VII. c. 54, s. 5 (2)

THE LICENSE BRANCH.

Regulations by Order-in-Council.

4.—(1) The Lieutenant-Governor in Council may make regulations for

Appointment of officers, etc.

- (a) the appointment of permanent officers, clerks and servants of the License Branch at Toronto for the purpose of carrying out the provisions of this Act or of any other Act of this Legislature respecting licenses for the manufacture or sale of liquor or for the regulation of the sale of liquor by wholesale or retail in Ontario;

Duties, powers, and salaries of officers, etc.

- (b) defining the duties and powers of such officers, clerks and servants, and fixing the security to be furnished by them or any of them for the due

performance of their respective duties, and fixing the salaries of such officers, clerks and servants;

- (c) providing for the employment of such special or temporary officers and clerks as may in the opinion of the Minister be necessary for the better enforcement of the provisions of this Act and any regulations or by-laws passed thereunder; Special or temporary officers and clerks.
- (d) regulating the transaction of business in the License Branch and the direction of License Inspectors and License Commissioners in the performance of their duties under this Act or any regulations or by-laws made or passed thereunder; Regulation of business.
- (e) providing for the inspection of License Districts and of the books and accounts of Inspectors, and for ascertaining that the duties of the office of Inspector are faithfully and efficiently performed; Inspection of License Districts.
- (f) providing for the holding of investigations into the conduct of Inspectors and License Commissioners and empowering any officer or other person holding such investigation to take evidence on oath and to summon witnesses and to enforce their attendance and to compel the production of books and documents, and for conferring upon such officer or other person all the powers possessed by a commissioner appointed under *The Public Inquiries Act*. Investigations: Rev. Stat. c. 18.

(2) Every regulation made by the Lieutenant-Governor in Council under this Act shall be published in the *Ontario Gazette*, and shall take effect from the date of such publication. 6 Edw. VII. c. 47, s. 2. Regulations to be published in Gazette.

BOARDS OF LICENSE COMMISSIONERS.

5.—(1) There shall be a Board of License Commissioners, to be composed of three persons, to be appointed by the Lieutenant-Governor, for each city, county, electoral district, or License District, as the Lieutenant-Governor may think fit. Board of License Commissioners.

(2) Any two of the Commissioners shall be a quorum. Quorum.

(3) Every Commissioner shall hold office until and inclusive of the 31st day of December in each year, or until a new Board or a majority thereof has been appointed, but any such Commissioner may be re-appointed. Term of office.

(4) The office of License Commissioner shall be honorary and without any remuneration. R.S.O. 1897, c. 245, s. 3; 9 Edw. VII. c. 82, s. 1. Office honorary.

6.—(1) The Board may at any time before the 1st day of May in each year pass resolutions for Powers of the Board.

Defining
requisites for
granting
tavern and
shop licenses.

(a) defining the conditions and qualifications requisite for obtaining tavern and shop licenses respectively for the sale of liquor by retail within the License District;

Limiting
number of
licenses, etc.

(b) limiting the number of tavern and shop licenses respectively, and defining the respective times and localities within which and the persons to whom such licenses may be issued within the year, from the 1st day of May of one year till the 30th day of April inclusive of the next year;

Regulating
premises.

(c) regulating the taverns and shops to be licensed;

Defining duties
of inspectors.

(d) fixing and defining the duties, powers and privileges of the Inspector of the License District.

Duration of
regulations.

(2) Regulations duly passed by the Board in accordance with subsection 1 shall remain in force until amended or repealed by the Board or its successors in office. R.S.O. 1897, c. 245, s. 4.

Penalties for
infraction of
regulations.

(3) In and by any such resolution, the Board may impose penalties for the infraction of its provisions not exceeding \$50 in any instance, or, in default of payment, imprisonment not exceeding twenty-one days.

Recovery.

(4) Such penalties may be recovered or enforced by summary proceedings before a justice of the peace having jurisdiction, in the same manner as penalties imposed for the contravention of municipal by-laws. *See* R.S.O. 1897, c. 245, ss. 5, 100.

INSPECTORS.

Inspectors,
appointment.

7.—(1) An Inspector shall be appointed by the Lieutenant-Governor from time to time for each city, county, electoral district or License District, as the Lieutenant-Governor may think fit.

Security.

(2) Every Inspector shall, before entering upon his duties, furnish such security as the Minister may require for the due performance of such duties and for the payment over of all sums of money received by him according to the provisions of this Act.

Salary.

(3) The salary of every Inspector shall be fixed by the Lieutenant-Governor in Council. R.S.O. 1897, c. 245, s. 6.

Chief Inspector
may be
appointed in
Toronto.

8.—(1) A Chief Inspector may be appointed for the City of Toronto, and he shall have jurisdiction throughout the said city.

Duties.

(2) Such Chief Inspector shall perform all the duties of an Inspector, and shall have all the rights, powers and authority thereof, and shall be charged with the duty of seeing that this Act is enforced.

(3) Such Chief Inspector shall, unless the Lieutenant-Governor otherwise directs, act as the secretary of the Board, and shall visit and inspect all premises for which a license is sought, and shall perform such other duties as may be assigned to him by the Board or by the Lieutenant-Governor in Council. R.S.O. 1897, c. 245, s. 7; 9 Edw. VII. c. 82, s. 2. ^{Idem.}

ISSUE OF LICENSES.

9.—(1) The Lieutenant-Governor in Council may direct the issue of tavern and shop licenses, and the licenses shall be signed by the Minister and dated as of the first day of May in each year, and shall thence continue in force for one year, and shall expire on the 30th day of April in the next ensuing year. ^{Issue of licenses.}

(2) After the 1st day of May, tavern and shop licenses may be issued between the 1st and 15th days of May in each year; and all such licenses shall be deemed to have been issued on the 1st day of May. ^{At what time.}

(3) Where special grounds are shown, the Board may direct one or more licenses to issue at any time after the 1st day of May, if within the limit authorized by this Act and if the application therefor has been filed with the Inspector on or before the 1st day of April next preceding. ^{In special cases.}

(4) In counties or cities in which the second part of *The Canada Temperance Act* having been in force has been repealed and such repeal takes effect after the 1st day of May in any year, it shall not be necessary that the application be filed within the time limited by subsection 3. R.S.O. 1897, c. 245, s. 8. ^{Exception.}

(5) Every license shall be issued under the direction of the proper Board, by the Inspector for the License District in which the tavern or shop to which the license is to apply is situate. R.S.O. 1897, c. 245, s. 9. ^{Licenses, how issued.}

10.—(1) Notwithstanding anything in this Act, the Minister may at any time prohibit the granting or issuing of a tavern or shop license to any person for premises situate in any License District, and every member of the Board and the Inspector shall see that any order given by the Minister under this section is obeyed. 6 Edw. VII. c. 47, s. 23 (1); 1 Geo. V. c. 64, s. 13, *part*. ^{Minister may prohibit the granting of a license in tavern or shop.}

(2) Every License Commissioner or Inspector who issues or sanctions or permits the issue of a license in contravention of any such order shall be guilty of an offence against this Act, and shall incur the penalties provided by section 62. 6 Edw. VII. c. 47, s. 23 (2). ^{Penalty for issuing license after prohibition.}

Vessel licenses
not to be
issued.

11.—(1) No license shall be issued for the sale of liquor on any ferry boat or on any vessel navigating any of the great lakes or the rivers St. Lawrence or Ottawa or any inland waters of Ontario, nor shall any liquor be sold or kept for sale in any room or place on any such ferry boat or vessel. R.S.O. 1897, c. 245, s. 10.

Who to be
deemed
"occupant"
of steamboat,
etc.

(2) The owner, master, captain or other person in command or in charge of any ferry boat or any vessel navigating any of the great lakes or the rivers St. Lawrence or Ottawa, or any of the inland waters of Ontario, shall be deemed to be the "occupant" of such ferry boat or vessel within the meaning of section 103, and for every contravention of the provisions of this Act on board such ferry boat or vessel shall personally incur the penalty and punishment prescribed in this Act in the same manner and to the same extent as the occupant of a house, shop, room or other place. 6 Edw. VII. c. 47, s. 5.

No tavern or
shop license to
be granted
except upon
application
and report
thereon.

12.—(1) A license to sell liquor, by retail, in any tavern or shop shall not be granted except upon application to the Board of the License District in which the license is to have effect, praying for the same; nor until the Inspector has reported in writing to the Board that

(a) the applicant is a fit and proper person to have a license and, in the case of a tavern license, has all the accommodation required by law; and

(b) the applicant is known to the Inspector to be of good character and repute;

Report to be
filed.

and every such report shall be and remain open to the inspection of any ratepayer of a municipality within the License District or of any provincial officer.

When applica-
tion to be
presented.

(2) Every application for a tavern license, which is to take effect on the 1st day of May in any year, shall, on or before the 1st day of April next preceding, be filed with the Inspector for the License District where it is to have effect.

Report not to
be conclusive.

(3) The Inspector shall not report in favour of any applicant other than the true owner of the business of the tavern or shop proposed to be licensed, and his report shall be for the information of the License Commissioners, who shall nevertheless exercise their own discretion on each application.

Report may be
dispensed
with.

(4) Where the applicant for a tavern or shop license resides in a remote part of the License District, or where for any other reason the Board sees fit, it may dispense with the report of the Inspector, and act upon such information as may satisfy it in the premises.

Board to fix a
day for
considering
applications.

(5) The Board shall, on or before the 1st day of April, fix a day for considering applications for licenses, being not

less than one week prior to the 1st day of May in each year, and the Inspector shall publish at least fourteen days before the day of the meeting, in at least two issues of a newspaper published in the License District, if there be one published therein, the date and place fixed for the meeting, and the Inspector shall cause a notice containing similar information to be affixed to or near the outer door of the building in which his office is situate.

(6) The Inspector shall, at least fourteen days before the first meeting of the Board to consider applications, cause to be published in at least two issues of some newspaper published in the License District, if there is one published therein,

Notice by
Inspector as to
applications.

- (a) the name of each applicant for a license, who is not at the time of the making of such application a licensee under this Part in the municipality within which the license is sought to be obtained, or who applies for the licensing of premises not then under license;
- (b) the description of license applied for and the place, described with sufficient certainty, where such applicant proposes to sell,
- (c) the total number of tavern and shop licenses issued during the current license year; and
- (d) the total number of applications for the ensuing year;

and he shall also keep a list of all applications, to be entered in a book to be kept by him for the purpose, containing similar information, and such list shall be open to the public for inspection without charge.

(7) Any ten or more electors of any polling subdivision may object by petition, or in any similar manner, to the granting of any license within such subdivision on the ground that

Objections to
applications.

- (a) the applicant is of bad fame and character, or of drunken habits, or has previously forfeited a license, or has been convicted of selling liquor without a license within a period of one year; or has kept, within a period of two years, a place in which the illicit sale of liquor was frequent and notorious; or
- (b) the premises in question are out of repair or have not the accommodation required by law; or
- (c) the licensing thereof is not required in the neighbourhood, or the premises are in the immediate vicinity of a place of public worship, hospital, or school, or the quiet of the place in which such

As to character
of applicant.

As to his
premises.

As to the
neighbour-
hood.

premises are situate will be disturbed if a license is granted.

Hearing objections.

(8) Any person who has signed a petition against the granting of a license may, in person or by his agent, be heard in opposition to such granting.

Objections by municipalities.

(9) The council of any city, town, village or township may authorize any person to appear in a similar manner on behalf of the ratepayers of such city, town, village or township, as to the granting of a license, and the person so authorized shall be heard in opposition to the granting of such license.

As to objections to character.

(10) Except at the instance of the Board, no objection in respect of the character of any applicant shall be entertained until three days' notice in writing has been given to the applicant, which may be served personally or left at his usual place of residence or business; and the service may be proved orally or by affidavit.

Board may notice matters not mentioned by objectors.

(11) Notwithstanding anything in this Act, the Board may of its own motion take notice of any matter or thing which in its opinion would be an objection to the granting of a license, although no notice or objection has been given or made as prescribed by this Act; and in any such case the Board shall notify the applicant and shall adjourn the hearing of the application, if requested by him, for any period not exceeding fourteen days, in order that any person affected by the objection may have an opportunity of answering the same. R.S.O. 1897, c. 245, s. 11 (1-12).

Notice to applicant in such cases.

Decision of Board final.

(12) The decision of the Board, in regard to the application mentioned in subsection 1, when once announced by the chairman, shall not be questioned or reconsidered, but where the decision of the Board has not been unanimous, or where the person or persons affected by such decision petition the Board and allege facts or grounds for its consideration not formerly before it, the Board may by resolution, in which all of the Commissioners concur, decide to rehear the case; and where a re-hearing is allowed, notice thereof shall be given by the Inspector to the applicant and to at least one of the petitioners opposing the granting of the license or to his agent. R.S.O. 1897, c. 245, s. 11 (13); 9 Edw. VII. c. 82, s. 3.

Certificate required with application in case applicant is not a licensee under this Part.

(13) (a) Where application is made for a tavern or shop license by a person who is not, at the time of making such application, a licensee under this Part in the municipality within which such license is sought to be obtained, or in the case of an application for such license for or transfer thereof to premises which are not then licensed, the application shall be accompanied by a certificate according to Form 1 or to the like effect signed by a majority of the electors entitled to vote at elections for the Legisla-

tive Assembly in the polling subdivision in which the premises sought to be licensed are situate and such majority shall include at least one-third of such electors who are at the time of such application resident within such polling subdivision.

(b) The requirement of a certificate shall not apply to the transfer of a license from the holder thereof to some other person for the same premises with the consent of the Board, nor to a licensee applying for permission of the Board to remove with his license to other premises in the same polling subdivision, if such permission does not increase the number of licensed premises in such polling subdivision, but such transfer or removal shall not be allowed if a majority of the electors duly qualified as aforesaid petition against the same on the grounds hereinbefore set forth or on any of such grounds; nor shall such requirement apply to an applicant for a six months' license under section 17 where the person applying therefor was the holder of a similar license for six months or some part thereof in the preceding year for the same premises. R.S.O. 1897, c. 245, s. 11 (14); 1 Geo. V. c. 64, s. 19.

- i. If a question arises as to whether the number of electors who have signed a certificate or petition comprises a majority of the duly qualified electors of the subdivision, or includes one-third of the resident electors, or as to whether any one or more persons who have signed the certificate or petition are duly qualified voters, or are residents of the polling subdivision, the clerk of the municipality in which the polling subdivision is situate, shall take evidence upon oath, or otherwise, and determine the question in dispute, and he shall in such case report to the Board in writing, signed by him, the number of duly qualified electors and of resident electors respectively for the subdivision and the number of duly qualified electors who have signed the certificate or petition as the case may be, and the number of such last mentioned electors who are resident as aforesaid, and if he has disallowed any of the names upon such certificate he shall in such report state such names and his reasons for such disallowance, and unless appealed against as hereinafter mentioned, his report shall be final and conclusive; and for such report the clerk shall be entitled to a fee of \$5, payable out of the License Fund.
Clerk of municipality to verify in case of disputes.
- ii. The clerk shall give to the applicant for the license, and to at least one of the persons signing any petition against the license, written notice of the time and place at which he will determine the question and the procedure to be adopted by the

clerk in giving such notice and determining such question shall be in accordance with any general regulations made in that behalf by the Lieutenant-Governor in Council.

- iii. From every such decision and report of the clerk an appeal shall lie to the Judge of the County or District Court of the county or district in which the premises sought to be licensed are situate, under and subject to such regulations as may be made by the Lieutenant-Governor in Council in that behalf.

As to un-organized districts.

(c) In localities not under municipal organization the certificate shall be signed by at least eleven out of the twenty householders residing nearest to the premises in which the applicant proposes to carry on the business for which the license is required. 7 Edw. VII. c. 46, s. 10.

Time for filing.

(14) Every petition against the granting of a license shall be lodged with the Inspector at least four days before the first meeting of the Board to consider the applications; and the Inspector shall present the same to the Board at its meeting.

Posting list of petitions, etc.

(15) The Inspector shall keep a list posted in his office for three days previous to the meeting of the Board of all applications, certificates and petitions lodged with him as aforesaid, and every such application, certificate or petition shall be open to public inspection without fee.

Hearing and determining objections.

(16) Every application for a license, and all objections to every such application, shall be heard and determined at a meeting of the Board.

Proceedings at hearings.

Rev. Stat. c. 90.

(17) Every such hearing shall be open to the public, and the Board may summon and examine on oath such witnesses as it may think necessary, and as nearly as may be in the manner directed by *The Ontario Summary Convictions Act*; and any member of the Board may administer the oath; but nothing herein contained shall prevent the Board from retiring or sitting with closed doors while considering or preparing their decision or judgment in respect of any application.

Adjourning meetings.

(18) Any meeting of the Board for the consideration of applications may, at the discretion of the Board, be adjourned from time to time to the same or any other place or building within the License District.

Office of Inspector.

(19) Where the Inspector has not taken or set apart premises especially for the purposes of an office, the room or rooms in which he usually conducts his official business, whether at his residence or place of business, shall be deemed to be his office for the purposes of this Act.

Duty of Board and Inspector.

(20) The foregoing subsections of this section are declared to be obligatory on the Board and Inspector, but non-com-

pliance therewith shall not invalidate the action of the Board or Inspector.

(21) Nothing in subsection 20 shall authorize the granting of a license contrary to the provisions of subsection 13. Saving as to subsection 13.
R.S.O. 1897, c. 245, s. 11 (15-21).

13.—(1) If, upon application of any person requiring a tavern or shop license, it appears that such applicant is the true owner of the business of such tavern or shop and has complied with the requirements of the law and of any municipal by-laws in force in that behalf and also with the regulations and requirements of the Board, and is one of the persons designated or otherwise approved of by it, the Board may grant such applicant a certificate under the hands of any two of its members stating that he is entitled to a license for the period named therein, for the certain tavern or shop within the municipality, specified in the certificate. R.S.O. 1897, c. 245, s. 12 (1). Mode of procedure in obtaining tavern or shop licenses.

(2) (a) Before any tavern or shop license is granted the person applying for the same shall enter into a bond to His Majesty in the sum of \$200, with two good and sufficient sureties, to be approved of by the Inspector, in the sum of \$100 each, with the condition and in other respects according to the form or to the effect of such one of Forms 2 and 3 as is applicable to the case; and when executed the bond shall be delivered to the Inspector, to be by him transmitted to the office of the Minister. Security to be given by licensee.

(b) Members of municipal councils and constables shall be ineligible as sureties in the bond to be given under clause (a) of this subsection. Who not eligible. R.S.O. 1897, c. 245, s. 17.

(c) In lieu of the security to be given as provided by clause (a) of this subsection the Lieutenant-Governor in Council may by Order in Council direct that an agreement may be entered into between His Majesty and any guarantee company or other company authorized to enter into contracts of suretyship or to issue policies for guaranteeing the good behaviour of persons required to furnish such security, by which such company may undertake, in consideration of a fixed annual payment or otherwise, to indemnify His Majesty or any municipal corporation against non-payment of any fines or penalties or costs which the person applying for any license or to whom any license is transferred may be ordered to pay during the term for which the license is granted or during which such person is the holder of a tavern or shop license, to the amount stated in such agreement or in any schedule attached thereto. Security—by licensees,—general agreements with guarantee companies.

(d) It shall not be necessary that a separate agreement be entered into for each applicant for a license or transferee of a license, but the agreement with such company may provide that upon notice being given in writing by an officer When liability of company to attach.

of the Government of Ontario at Toronto to the company that the company is required to furnish security for any such applicant or transferee, and upon the acknowledgment in writing of receipt of such notice by the company, the company shall become liable to the extent of the amount stated in such notice.

Payment of
premium by
licensee.

(e) The amount chargeable to each applicant for such guarantee shall be stated in the agreement and shall be paid by the applicant to the Inspector before the issue of the license, and shall be by him forthwith deposited to the credit of the License Fund of the License District. 6 Edw. VII. c. 47, s. 4.

Payment of
license fee.

(3) Subject to subsection 6 the license fee shall be paid by the applicant into such bank as may be designated by the Minister to the credit of the "License Fund Account," for the license district; and upon production by the applicant to the Inspector of the certificate of the Board, together with a receipt showing payment in full of the fee to the credit of the License Fund Account, the Inspector may issue the license authorized by the Board. R.S.O. 1897, c. 245, s. 12 (2).

Tavern and
shop licenses.
Fees payable.

(4) (a) Subject to clause (b), the following license fees shall be payable, and save as provided in subsection 5 shall be in lieu of all others, Provincial or municipal, that is to say:—

In a city having a population exceeding 200,000:

For a tavern license\$1,600

For a shop license 1,000

and in addition thereto there shall be paid for each such shop license for the exclusive use of the Province a further sum of \$600.

9 Edw. VII. c. 82, s. 38; 3-4 Geo. V. c. 54, s. 2.

In a city having a population of more than 100,000 and not more than 200,000:

For a tavern license\$1,200

For a shop license 1,000

6 Edw. VII. c. 47, s. 10 (1), *part.*

In a city having a population of more than 30,000 and not more than 100,000:

For a tavern license\$700

For a shop license 700

In a city or town having a population of more than 10,000 and not more than 30,000:

For a tavern license\$500

For a shop license 500

In a city having a population of 10,000 or less and in a town having a population of more than 5,000 and not more than 10,000: ^{Fees payable.}

For a tavern license\$450

For a shop license 450

In a town or village having a population of more than 2,000 and not more than 5,000:

For a tavern license\$350

For a shop license 350

In a town or village having a population of 2,000 or less:

For a tavern license\$250

For a shop license 250

In a township:

For a tavern license\$120

For a shop license 200

In any locality in a provisional judicial district other than a city, town or village:

For a tavern license\$120

(b) In a city, town, village or other municipality or in a locality without municipal organization, in a provisional judicial district there shall be payable:

For a shop license\$500

(c) For a beer and wine license the fee shall be three-fourths of that imposed for a tavern license in the municipality or unorganized district in which the beer and wine license is issued.

(d) For every transfer of a tavern or shop license there shall be payable a fee amounting to one-third of the fee payable for the license transferred. 6 Edw. VII. c. 47, s. 10 (1), *part*.

(e) The Lieutenant-Governor in Council may increase the duties payable for tavern or shop licenses in any provisional judicial district or in any municipality or locality situated therein to such an amount as may be deemed proper, and such increase shall take effect as may be directed by Order-in-Council or from the date of the publication thereof in the *Ontario Gazette*. 6 Edw. VII. c. 47, s. 10 (1), *part*.

(5) (a) The council of any municipality may by by-law increase the fees to be paid for tavern or shop licenses therein beyond the amounts provided by subsection 4, but every such proposed by-law shall, before the final passing thereof, be submitted to and approved by the electors in the ^{By-law for increasing fees.}

Rev. Stat.
c. 192.

manner provided by *The Municipal Act* with respect to proposed by-laws which before their final passing require the assent of the electors of the municipality.

When by-law
to take effect.

(b) Such by-law shall take effect from the passing thereof unless passed later than the 1st day of March in any year. in which case it shall come into force on the 1st day of May of the next succeeding year.

By-law not to
be repealed,
etc., without
assent of
electors.

(c) Any by-law so approved shall not be varied or repealed unless the varying or repealing by-law has been in like manner submitted to and approved of by the electors of the municipality.

By-laws
passed
before 27th
April, 1906,
increasing
fees.

(d) Where the council of any municipality, by by-law duly passed prior to the 27th day of April, 1906, has provided that license fees in excess of the amount fixed by subsection 4 shall be payable and the total amount payable for a tavern or shop license in such municipality is by reason of such by-law increased to an amount in excess of that fixed by subsection 4 the fees payable in such municipality shall be those fixed by that subsection with such an amount added thereto as will, together with the amount fixed by that subsection, equal the amount payable at the date aforesaid in such municipality, but the whole of such fees shall be payable into the License Fund of the License District, and shall be dealt with and apportioned as provided by section 122.

Repeal of
by-laws
passed before
27th April,
1906.

(e) Any by-law heretofore passed for increasing such license fee beyond the amount payable under subsection 4, may be repealed or amended as hereinbefore provided, but in no case shall such license fee be reduced below the amount fixed by that subsection.

When council
may not
increase fees.

(f) In any city where by section 10 of the Act passed in the 6th year of the reign of His late Majesty King Edward the Seventh an increase was made in the fee payable for a tavern or shop license, no further increase shall be made under this subsection by the council of such city. 6 Edw. VII. c. 47, s. 11.

Payment of
tavern or
shop license
fee in two
instalments.

(6) (a) If the applicant for a tavern or shop license so desires, the annual license fee payable to the Province may be paid in two equal instalments, one on the 1st day of May and the other on or before the 31st day of October following. 62 Vict. (2), c. 31, s. 28, *part*; 1 Edw. VII. c. 12, s. 26, *part*.

Permit for
first half-year
on payment of
instalments.

(b) In such case the Board may grant the certificate specified in the preceding clause, and upon the applicant paying in to the bank to the credit of the License Fund Account for the License District one-half of such license fee then, upon the production by the applicant of the certificate of the Board or any two of its members, together with a receipt showing payment of one-half of such fee to the credit of the License Fund Account, the Inspector may

issue to the applicant a permit which shall remain in force for a period of six months, that is to say, from the 1st day of May in the year in which it is issued until the 31st day of October of the same year and no longer, and while in force shall confer on the holder the same privileges and authority as if he had obtained a license.

(c) Upon payment in similar manner of the second instalment of such fee on or before the 31st day of October, and on surrender of his permit the license may be delivered to the applicant by the Inspector but not before. 62 Vict. (2), c. 31, s. 28, *part*. License to issue on payment of second instalment.

(d) Where the annual license fee payable for a tavern or shop license under this Part is not less than \$1,000, the same may be paid in four equal instalments, on the first day of the months of May, August, November and February, and in any case to which this clause applies, a permit may, notwithstanding anything in this subsection, be issued for a period of three months to the person having paid any such instalment, and subject in all other respects to the same conditions and stipulations applicable to the holder of an annual license issued under this Part, and such permits shall be in the form prescribed by Order in Council, and shall be dated on the day of issue. 9 Edw. VII. c. 82, s. 45. Payment of license fees in quarterly instalments.

(e) The Lieutenant-Governor in Council may direct the issue of permits in such form as he may provide to be used in place of licenses where the license fee is paid by instalments; and such permits shall be signed by the Minister and dated as of the 1st day of May in each year, and shall be absolutely void and of no effect after the 31st day of October in the year in which they are issued. Form and duration of permits.

(f) All the provisions of this Part with regard to licenses and offences and penalties shall apply to persons holding permits in the same manner and to the same extent as if such persons were licensees, and a permit may be revoked or cancelled on the same grounds on which a license may be revoked or cancelled under section 81, and for the purpose of proceeding under that section the permit and any license subsequently granted shall be treated as one and the same. Application of other provisions of this Act.

(g) Where a person to whom a permit has been granted sells liquor or otherwise offends against this Part after the time mentioned in his permit has expired he shall incur the same penalties as are provided under this Part in the case of a person who sells liquor without the license therefor by law required or otherwise so offends; and proceedings may be taken against him in the same manner and as though no license had been granted or issued. Penalty for violating permit.

(h) It shall not be necessary in any proceedings under this Part to specify or particularize the permit, but the same shall be included for all such purposes in the word "license." 62 V. (2), c. 31, s. 28, *part*. "License" to include permit.

Extent and conditions of license.

14. Subject to the provisions of this Act as to renewals and the transfer of licenses, every license for the sale of liquor shall be held to be a license only to the person therein named and for the premises therein described, and shall remain valid only so long as such person continues to be the occupant of the said premises and the true owner of the business there carried on. R.S.O. 1897, c. 245, s. 16.

No license to be granted to Commissioner or Inspector.

15.—(1) A tavern or shop license shall not be granted to or for the benefit of any person who is a License Commissioner or Inspector, and every license so issued shall be void.

License not to be issued for any premises owned by such person in his district.

(2) A tavern or shop license shall not be issued for premises within any License District of which any of the License Commissioners or of the Inspectors for such district is the owner, and every License Commissioner who knowingly grants a certificate for a license, and every Inspector who knowingly issues a license for any such premises, contrary to the provisions of this subsection, shall incur a penalty of \$500.

Where Commissioner, etc., is a shareholder in a company to be licensed.

(3) The preceding subsection shall not extend or apply to premises owned or occupied by an incorporated company in which a License Commissioner is a shareholder, but in every such case and in every case where a License Commissioner is the mortgagee of any premises or agent for the collection of rents in respect of any such premises, such License Commissioner shall not vote upon any question affecting the granting of a license to the company or for premises owned or occupied by it, or for premises in respect of which he is such mortgagee or agent; and any License Commissioner who contravenes the provisions of this subsection shall incur a penalty of \$500. R.S.O. 1897, c. 245, s. 15.

Licenses not to be issued to members of councils or their wives, etc.

(4) No tavern or shop license shall be issued to or held by any person who is a member of a municipal council, nor shall any license be issued to or transferred to or held by any person who is the wife, or partner in business, or agent, or the son or daughter (if such son or daughter is resident with his or her father), of a member of the municipal council of a municipality within the License District in which the licensed premises or the premises for which a license is sought, or the premises to which the license is sought to be transferred, as the case may be, are situate.

Licenses, husbands, etc., disqualified for election to councils.

(5) No person who is the manager of any company to which a tavern or shop license is issued or transferred under this Act or who is employed in any capacity in the business of any person, firm or company holding a tavern or shop license under this Act, and no person whose wife, or partner in business, or agent, or whose son or daughter (if such son or daughter is resident with his or her father) is the holder of a tavern or shop license shall be qualified to be elected a member of the council or to sit or vote in the council in any municipality comprising or forming part of

the License District in which the licensed premises are situated, but no person shall be disqualified or rendered ineligible to sit and vote in a municipal council by reason only of such person being a shareholder in a company to which a tavern or shop license is issued or transferred under this Act. 6 Edw. VII. c. 47, s. 3; 7 Edw. VII. c. 46, s. 1.

16.—(1) If a petition in writing signed by at least ten per cent. of the total number of persons appearing by the last revised voters' list of a city to be qualified to vote at municipal elections is filed with the clerk of the city on or before the 1st day of November in any year, praying for the submission of a by-law to the electors limiting the number of tavern or shop licenses or both tavern and shop licenses to be issued in the city for the next ensuing license year, beginning on the 1st day of May and for subsequent years until such by-law is repealed, and if the number of such licenses stated in the petition is within the limit fixed by this Act, the council shall submit such proposed by-law to the vote of the electors of the municipality qualified to vote at municipal elections in the city in the manner provided by *The Municipal Act*. Submission of by-law limiting number of licenses in cities.

Rev. Stat. c. 192.

(2) The day fixed for taking the vote of the electors on the proposed by-law shall be the day upon which under *The Municipal Act*, or any by-law passed under that Act, a poll is held for the annual election of members of the municipal council. Date of polling.

(3) If a majority of the electors voting upon such proposed by-law assent to the same, the council shall within six weeks thereafter finally pass the by-law, and this section shall be construed as compulsory and the duty so imposed upon the council may be enforced at the instance of any municipal elector by mandamus or otherwise. Duty of Council if by-law carried.

(4) After the passing of such by-law, no proposed by-law for the repeal or amendment of the same shall be submitted to the electors before the day of polling for the third annual election to be held after that at which the voting on the first mentioned by-law took place, but this shall not affect the submission at any municipal election of a Local Option By-law. By-law to remain in force for three years.

(5) The clerk of the city shall deliver a certified copy of every by-law passed under this section to the Board immediately after the passing thereof. 1 Geo. V. c. 64, s. 21. Copy of by-law to be sent to Board.

17.—(1) Where the Board of any License District does not think fit, or is unable to grant a new license to any applicant who has been licensed during the preceding twelve months or any part thereof, it may nevertheless by resolution, provide for extending the duration of the existing license for any specified period of the year, not exceeding three months at its discretion, upon payment by the appli- Extended licenses.

cant of a sum not exceeding the proportionate part of the duty payable for such license for the then next ensuing license year; and such license, when a certificate of the extension aforesaid has been indorsed thereon, under the hand of the Inspector for the License District, shall remain valid for the period specified in the resolution of the Board, and no longer. R.S.O. 1897, c. 245, s. 21, *part*.

Limit of
number
prescribed
not to be
exceeded.

(2) Nothing in subsection 1 shall confer on the Board any authority to exceed the limit prescribed by this Act as to the number of tavern licenses to be granted in any year, except in a locality largely resorted to in summer by visitors, where the Board may, if it thinks fit, grant one additional tavern license, for a period not exceeding six months, commencing on the 1st day of May in each year. R.S.O. 1897, c. 245, s. 21, *part*; 9 Edw. VII. c. 82, s. 5.

LICENSES TO FIRMS.

Granting
tavern or shop
licenses to
partnerships.

18.—(1) Subject to the conditions and regulations in this section and in any Order in Council respecting the granting of such licenses, a tavern or shop license may be granted or transferred to a firm registered under *The Partnership Registration Act*.

Rev. Stat.
c. 139.

Application
for firm
license.

(2) The application for such license shall be signed by the firm under its name as registered, and by every person registered as a member of such firm in his own name, and the bond or other security to be furnished as provided by section 13 shall be executed and entered into or furnished by each registered member of the firm severally.

Liability of
members of
firm.

(3) Every registered member of the firm shall be severally liable to the fines and penalties imposed by this Act in the same manner and to the same extent as if he were the holder of the license, and any prosecution for contravention of this Part in or upon premises the license for which is held by a firm may be carried on against the individual members of the firm or any one or more of them jointly or severally; but not more than one of the members of the firm shall be convicted of the same offence, and the conviction of one of them shall be a bar to the conviction of the other or others of them.

Effect of
changes in
firm.

(4) If during the term of the license any change takes place in the firm by death, dissolution of partnership, or the retirement of any member, the remaining member or members and the legal representatives of any such deceased member shall within one month thereafter obtain the written consent of the Board to the continuance of the business, and if such consent is not obtained or the license is not transferred as provided by section 21, such license shall be void.

Cancellation
of firm
license.

(5) The license granted or transferred to any firm may be revoked or cancelled under the circumstances and in the

manner provided by section 81 or by any other section of this Act, and those sections shall apply to firms in the same manner and to the same extent as to individuals, and the conviction of any member of the firm shall for the purposes of those sections be deemed to have been the conviction of the firm. 6 Edw. VII. c. 47, s. 7.

LICENSES TO COMPANIES.

19.—(1) Subject to the conditions and regulations in this section and in any Order in Council respecting the granting of such licenses, a tavern or shop license may be granted or transferred to an incorporated company. 6 Edw. VII. c. 47, s. 8 (1); *see* 9 Edw. VII. c. 82, s. 36; and *see* also Part II. of this Act. Tavern or shop licenses to companies.

(2) The application for such license shall be signed by the president and secretary of the company and the corporate seal of the company shall be affixed thereto, and in lieu of the security required by section 13 such security shall be furnished by the company as shall be determined by Order in Council. Application for company's license.

(3) The company shall, before such license is issued and from time to time thereafter as a vacancy may occur, appoint some person to be manager of the licensed premises and shall file with the Board a certificate of the appointment of every such manager under the hands of the president and secretary and the corporate seal of the company. 6 Edw. VII. c. 47, s. 8 (2-3). Manager to be appointed.

(4) Every manager of an incorporated company holding a tavern or shop license shall be responsible for the proper and lawful conduct of the business carried on on the licensed premises and shall perform the same duties and be liable to the same fines and penalties for any contravention of this Part or any regulation or by-law made or passed thereunder, and shall furnish the same security as if the license for such premises had been issued to him in his own name. 6 Edw. VII. c. 47, s. 8 (4); *see* 9 Edw. VII. c. 82, s. 37; and *see* also Part II. of this Act. Duties and liabilities of manager.

(5) The license granted to any company may be revoked or cancelled under the circumstances and in the manner provided by section 81, or by any other section of this Act, and those sections shall apply to companies in the same manner and to the same extent as to individuals, and the conviction of the manager of the company for the time being shall for the purpose of the said sections be deemed to have been the conviction of the company. 6 Edw. VII. c. 47, s. 8 (5-8). Revocation and cancellation of company's license.

CONTRACTS.

Licenses
not to enter
into contracts
restricting
purchase of
liquor.

20.—(1) No holder of a license for the sale of liquor by retail in a tavern or shop shall hereafter, in consideration of an advance of money or other financial assistance to such license holder, make or enter into, directly or indirectly, or be or become a party to, any contract, covenant, agreement, undertaking, stipulation or bargain, written or verbal, which has the effect of imposing or is intended or purports to impose any restriction whatsoever upon such license holder as to the person from whom or the locality in which liquor shall be purchased or supplied for sale in such tavern or shop.

Contracts
restricting
purchase
to be void.

(2) Every covenant, contract, agreement, undertaking, stipulation or bargain, whether written or verbal, entered into by the holder of a tavern or shop license, or by any other person acting for or on his behalf, with any brewer, distiller, manufacturer or wholesale merchant which has the effect of imposing or is intended or purports to impose upon any such license holder any restriction whatsoever as to the person from whom or the locality in which liquor shall be purchased or supplied for sale in any tavern or shop shall be absolutely void and of no effect to all intents and purposes whatsoever.

Penalty.

(3) Every holder of a tavern or shop license, and every brewer, distiller, manufacturer or wholesale merchant who either by himself or by any person acting on his behalf hereafter gives or enters into or demands or requires or requests any other person to give or enter into any such covenant, contract, agreement, undertaking, stipulation or bargain, shall be guilty of an offence against this Act, and shall incur a penalty of \$500, besides costs.

Certain con-
tracts not
affected.

(4) Nothing in this section shall in any way affect any covenant, contract, agreement, undertaking, stipulation, or bargain heretofore entered into by a license holder or hereafter entered into by a transferee of any license, where on the 27th day of April, 1906, the then holder of the license in question was indebted to any brewer, distiller, manufacturer or wholesale merchant for money advanced, and the amount of such indebtedness or any part thereof is assumed by such transferee at the time of the transfer of the license. 6 Edw. VII. c. 47, s. 29.

TRANSFER OF LICENSES.

Transfer of
licenses.

21.—(1) If any person having lawfully obtained a license under this Part before the expiration of his license dies, or sells, or by operation of law or otherwise assigns his business, or removes from the house or place in respect of which the said license applies, his license shall, *ipso facto*, become forfeited, and be absolutely null and void to all intents and

purposes whatsoever, unless such person, his assigns or legal representatives within one month after the death, assignment or removal of the original holder of such license, or other period, in the discretion of the Board of the License District in which the license has effect, obtains its written consent, either to the continuance of the business, or to the transfer of such license to any other person, and thereupon forthwith transfers the same to such other person, who, under such transfer, may exercise the rights granted by such license, subject to all the duties and obligations of the original holder thereof, until the expiration thereof, in premises for which such license was issued and to which it applies, but in no other place.

(2) In every such case of a transfer of a tavern license, the person in whose favour any such transfer is to be made shall first produce to the Board a report of the Inspector similar to that mentioned in section 12. R.S.O. 1897, c. 245, s. 37 (1-2). On transfer of tavern license new report necessary.

(3) Upon receipt by the Inspector of an application for a transfer of a license, and pending the consideration and consent thereto by the Board, the Inspector may, subject to the regulations of the License Branch, within one month thereafter issue to the proposed transferee a provisional consent in writing, Form 4, under which the proposed transferee may exercise the rights granted by the license issued for the premises, until the consent in writing of the Board is obtained; but such provisional consent shall not operate or extend beyond one month from the time of the death of the original licensee or from the sale or transfer by the licensee or by operation of law, and shall not have any force or effect unless the same is countersigned by one member of the Board. R.S.O. 1897, c. 245, s. 37 (3); 9 Edw. VII. c. 82, s. 7. Provisional consent to a transfer of license.

(4) Where an application is made for a transfer of a license issued to a tavern or shop situate in a remote part of the License District, or where for any other reason the Board sees fit, it may dispense with the report of the Inspector, and act upon such information as may satisfy it in the premises. R.S.O. 1897, c. 245, s. 37 (4). Report of Inspector may be dispensed with.

REMOVAL OF LICENSE.

22.—(1) Any Inspector may, after resolution of the Board allowing the same, and subject to the provisions of subsection 13 of section 12, issue to the holder of any license, or his assigns or legal representatives, in the form provided by the Minister, a permit to remove from the licensed premises to other premises, to be described in an endorsement to be made by the Inspector on the license, and situate within the same municipality and possessing all the accommodation required by law. Inspector may consent to removal of tavern license to another house.

Effect of
such consent.

(2) Such permit shall authorize the holder of the license to sell the same liquor in the premises mentioned in the endorsement during the unexpired portion of the term for which the license was granted, in the same manner, and upon the same terms and conditions; but no such permission shall be granted unless and until the person applying therefor has filed with the Board a report of the Inspector containing the information required by law in case of application for a license.

Effect of
security.

(3) Any bond or security which such holder of a license may have given for any purpose relative to such license, shall apply to the premises to which such removal is authorized, but such permission shall not entitle him to sell at any other than such premises. R.S.O. 1897, c. 245, s. 38.

Mileage
to be paid
Inspector
in certain
cases.

23.—(1) Where the Inspector is required, in the case of an application for leave to transfer or remove a license, to make an inspection, under the next preceding two sections and to travel, in order to make such inspection, a distance of more than three miles from his office or residence, the person making such application for a transfer or removal shall pay to the Inspector, in addition to all other fees, the sum of ten cents per mile, one way, for his travelling expenses, and the same shall be deposited by the Inspector to the credit of the License Fund; but the Inspector may be allowed the same, or so much thereof as is necessary to pay the actual cost of his travelling expenses in order to make such inspection, upon his accounts being rendered and approved in the ordinary manner.

Except in
cities.

(2) This section shall not apply to city license districts. R.S.O. 1897, c. 245, s. 39.

WHERE LICENSE LAPSES.

How licenses
may be
granted for
premises
where for
any cause
the license
becomes
void, etc.

24. In case for any cause the license becomes void, or in case the term or interest of the holder of a license in the premises licensed ceases before the expiry of the license, or if the licensee absconds or abandons the premises, or becomes insolvent, the Board may grant a new license for the same premises, subject to the provisions of this Part, and upon such terms as to the payment or refund by the new licensee of the duty for the unexpired period to the person entitled thereto under the original license, or to his legal representatives, as to the Board may seem just. R.S.O. 1897, c. 245, s. 40.

FRAUD IN THE SALE OF LIQUORS.

Bottled
liquors not
to be mixed
in the bottle,
and bottles
not to be
refilled by
licensee.

25.—(1) Bottled liquors procured by the keeper of a licensed tavern for the purpose of supplying the same to customers or guests shall be kept while on the licensed premises in the bottles in which such liquors are delivered to such keeper and in no case shall any other liquor or any substance or liquid be put into any such bottle and no bot-

tle after being emptied of such bottled liquor shall be re-filled either partially or wholly by the keeper of such licensed premises or any other person on his behalf for the purpose of supplying liquor or any substance or liquid to any customer or guest.

(2) No holder of a tavern or shop license shall use or permit to be used any sign or label upon any bottle, cask or other vessel in which liquor is kept for sale upon the licensed premises, which does not correctly and truly state the nature of the contents of such bottle, cask or other vessel, or which is in any manner calculated to mislead a customer or guest as to the nature, description or quality of such contents. Use of false labels, etc., prohibited.

(3) No holder of a tavern or shop license or any other person shall for any purpose whatsoever mix or permit, or cause to be mixed, with any liquor sold or supplied by him on the licensed premises as a beverage, any drug or any form of methylic alcohol or any crude unrectified or impure form of ethylic alcohol or other deleterious substance or liquid. 6 Edw. VII. c. 47, s. 26 (1-3). Mixture of drugs, etc., with liquor prohibited.

(4) No person, other than the manufacturer of the liquor, or persons acting under his authorization, shall attach or cause to be attached to any bottle, flask, cask or other vessel or package of spirituous liquor any label, stamp or other device containing any statement or information as to the name of the manufacturer of the liquor. 2 Geo. V. c. 55, s. 14. Labels as to name of manufacturer.

(5) Any person contravening any of the foregoing provisions of this section shall upon conviction for a first offence incur a penalty of not less than \$20 and not more than \$50 besides costs, and on default shall be liable to imprisonment for a period of three months, and upon conviction for a second offence shall incur a penalty of not less than \$50 nor more than \$100, and on default shall be liable to imprisonment for a period of six months, and upon conviction for a third offence shall be liable to imprisonment for a period of twelve months. Penalties.

(6) The Inspector or any special officer appointed by the Minister may at any time take from the liquors kept by the holder of a tavern or shop license upon the licensed premises sufficient thereof for the purpose of analysis to ascertain whether or not any of the provisions of this section have been contravened, and such special officer shall, if required before taking such liquor, produce the authority under which he acts in writing signed or purporting to be signed by the Minister. Taking samples to see that law observed.

(7) Section 130 shall apply to every Inspector or special officer acting under the provisions of this section. 6 Edw. VII. c. 47, s. 26 (4-6). Right of search.

Sales on
Exhibition
days.

Rev. Stats.
cc. 46, 47, 48.
R. S. O. 1897,
c. 43.

Licenses not
to be granted
to premises
within 300
feet of
church or
school.

26.—(1) The Board shall not grant any certificate for a license or any certificate whatsoever whereby any person can obtain or procure any license for the sale of liquor, on the days of the Exhibition of the Industrial Exhibition of Toronto, or of any exhibition held by any society formed under *The Agricultural Associations Act*, *The Agricultural Societies Act*, *The Horticultural Societies Act*, or *The Agriculture and Arts Act*, either on the grounds of such society, or within the distance of three hundred yards from such grounds.

(2) No license shall be granted under the provisions of this Act for the sale of liquor upon any premises, for which a license has not heretofore been granted, within 300 feet of a building occupied exclusively as a church or as a high school, public school, separate school, university, college or other public educational institution, to be measured from and to the main entrances, along the street or streets, or across the same at right angles, as the case may be. R.S.O. 1897, c. 245, s. 14.

TAVERN LICENSES.

Number.

When only
number may
be increased.

27.—(1) The number of tavern licenses to be granted in the respective municipalities shall not in each year exceed:

In a city, town or village,

- (a) For the first 250 of the population, one tavern license;
- (b) For each full 250 of the population above the first 250, one tavern license; but not more than three such licenses shall be granted for the first 1,000 of the population;
- (c) For each full 600 over the first 1,000 of the population, one tavern license;

Number of
licenses in
county towns
of 2,500 or
less.

(2) Subsection 1 shall not apply to county towns having a population of 2,500 or less, as to which the limit shall be one for each full 250 for the first 1,000 of the population, and one for each full 400 over 1,000 of the population; but in any such county town the number of licenses which may be issued shall not be reduced by reason of any increase of the population of such town above the number of 2,500. R.S.O. 1897, c. 245, s. 18 (1), *part*; 6 Edw. VII. c. 47, s. 34.

Issue of
licenses after
repeal of
local option
by-law.

(3) Where a Local Option By-law has been in force in any municipality and is subsequently repealed, the number of tavern licenses which may in the year following such repeal be issued in the municipality, until a by-law is passed reducing such number, shall be limited as provided by subsections 1 and 2.

(4) In villages, being county towns, the limit may be five ^{Exceptions.} in number. R.S.O. 1897, c. 245, s. 18; 9 Edw. VII. c. 82, s. 4.

(5) Nothing in any special Act shall authorize the issue of ^{Effect of special Act.} any greater number of tavern licenses in any municipality than is permitted by this section. 7 Edw. VII. c. 46, s. 7.

28.—(1) The council of every town, village or township ^{Council may limit number of licenses.} may, by by-law to be passed before the 1st day of March in any year, limit the number of tavern licenses to be issued therein for the then ensuing license year beginning on the 1st day of May, or for any future license year until such by-law is altered or repealed, provided such limit is within the limit imposed by this Part. R.S.O. 1897, c. 245, s. 20 (1); 1 Geo. V. c. 64, s. 20.

(2) No such by-law shall in a township or village be ^{By-law not void for creating a monopoly.} quashed or set aside on the ground only that a monopoly has been created by such limitation. 1 Geo. V. c. 64, s. 10, *part*.

(3) The council shall cause a certified copy of such by-law ^{Copy of by-law limiting to be sent to Commissioners.} to be sent immediately after the passing thereof to the Board of the License District in which the municipality is situate, and during the time such by-law is in force no greater number of licenses shall be issued than as therein limited. R.S.O. 1897, c. 245, s. 20 (2); 1 Geo. V. c. 64, s. 10, *part*.

(4) Notwithstanding the division of the municipality of ^{Limiting number of licenses in East and West York.} the Township of York into East and West York, with a separate Board of License Commissioners for each, the council of the township shall have the same powers under this Act that it would have were the municipality not so divided, and the council may pass a by-law limiting the number of licenses in each of the two said subdivisions of East and West York respectively and for the carrying out of the provisions of the said Act in so far as it affects the Township of York. 3 Edw. VII. c. 7, s. 44.

SUSPENSION OF LICENSE IN CASE OF FIRE.

29.—(1) If the premises for which any tavern license has ^{Suspension of license when premises destroyed by fire, etc.} been granted are destroyed or so damaged by fire or otherwise that it is impossible for the holder of such license to provide the accommodation required by this Part, or by any by-law or regulation in force in the municipality in which such premises are situate, the license for such premises shall *ipso facto* be suspended and be of no force or effect as to the premises so destroyed or damaged until the Inspector has reported to the Board that the said premises have been rebuilt or repaired to the extent necessary to provide such accommodation; but in that event a portion of the share received by the Province of the license fee paid by the holder of such license may be refunded to him out of the Consolidated Revenue Fund.

Transfer or
removal.

(2) Nothing in subsection 1 shall prevent the transfer or removal of such license in the manner provided by this Part. 6 Edw. VII. c. 47, s. 27.

PETITION AGAINST RENEWAL OF LICENSE IN RESIDENTIAL
LOCALITY.

Requisition
to Board to
decide as to
nature of
locality.

30.—(1) Any ten persons, being electors resident in the same polling subdivision in any city, may apply, in writing signed by them, to the Board requiring the Board to decide whether or not any premises for which a tavern license has been issued are situate in a residential and not a business locality.

Service of
notice.

(2) Notice of such application shall be personally served upon the owner and, if the owner is not the occupant, also upon the occupant, of such licensed premises at least two weeks before the application is delivered to the Board.

Decision of
Board.

(3) The Board, upon proof by statutory declaration of the service of the notice of application, shall, by resolution to be passed within one week after receiving the application, determine whether or not such licensed premises are situate in a residential and not in a business locality.

Petition
against
renewal of
license in
residential
locality.

(4) If the Board decides in the affirmative a petition signed by not less than seventy-five persons, being at least a majority in number of the electors in the polling subdivision, may, subject to subsection 5, be presented to the Board, praying that any tavern license issued for premises situate in such polling subdivision be not renewed, on the ground that the locality in which the same are situate is a residential and not a business locality.

Notice of
petition.

(5) At least one month before any petition is presented under this section a notice in writing, setting forth the substance of the petition, signed by at least ten electors resident in the polling subdivision, shall be personally served upon the owner of such licensed premises, and, if the owner is not also the occupant, then upon the occupant also of such licensed premises; and such notice shall, before the petition is presented, be published at least once a week for two successive weeks in some daily newspaper published in the city.

Service.

Publication.

Proof of
service.

(6) Service and publication of the notice shall be proved by statutory declaration attached to the petition.

When peti-
tion to be
presented.

(7) The petition shall be presented within two months after the service of notice of the intention to present the same and before the 1st day of April in the year in which such notice was served, and there shall be annexed thereto a certificate under the hand of the clerk and seal of the corporation, setting forth that the clerk has examined the petition and that there are subscribed thereto the names of at least a majority of the whole number of the electors in the polling subdivision.

(8) The signatures to the petition shall also be verified by the statutory declaration of at least one attesting witness. Proof of signature.

(9) The Board shall meet within one week after the receipt of the petition, and upon being satisfied that the provisions of the preceding subsections have been complied with, shall by resolution declare that the license for such premises shall not be renewed after the expiration of the next ensuing license year, and such license shall not be renewed, nor any other license in lieu thereof be granted to premises in the same locality, so long as the same is a residential locality. Consideration of petition—resolution of Board.

(10) Nothing in this section shall affect any powers which the Board has to cancel any license or refuse the renewal thereof, nor affect any right of petition, in respect of a license. Other powers of Board not affected.

(11) The word “electors,” where it occurs in this section, shall mean and include all persons whose names are entered in the last revised voters’ list of the municipality as entitled to vote at municipal elections. R.S.O. 1897, c. 245, s. 13. “Electors.”

Accommodation.

31.—(1) Subject to section 34 every tavern authorized to be licensed under the provisions of this Part shall contain and during the continuance of the license shall continue to contain in addition to what may be needed for the use of the family of the tavern-keeper, not less than four bedrooms, and in cities six bedrooms, together with, in every case, a suitable complement of bedding and furniture, and, except in cities and towns, there shall also be attached to the said tavern, proper stabling for at least six horses. Bedrooms and bedding.

(2) Such tavern shall form no part of, and shall not communicate by any entrance with any shop or store wherein goods or merchandise known as groceries or provisions are kept for sale; but this subsection shall not apply to taverns in townships unless so provided by by-law of the township council. R.S.O. 1897, c. 245, s. 27. Not to communicate with grocery.

(3) No tavern license shall be granted in respect of any house in any city, town or village not already licensed, unless such house has a separate front entrance, in addition to the entrance to the bar or place where liquors are sold. R.S.O. 1897, c. 245, s. 66. Entrance to hotel to be separate from bar.

32.—(1) In addition to the accommodation required by the last preceding section, each tavern shall be shown, to the satisfaction of the Board, to be a well-appointed and sufficient eating-house, with the appliances requisite for daily serving meals to travellers; and the requirements of this section shall apply to every tavern, without any exception whatever, and continuously for the whole period of the license. R.S.O. 1897, c. 245, s. 28. Every tavern to be an eating house.

One bar only.

(2) No more than one bar shall be kept in any house or premises licensed under this Act. R.S.O. 1897, c. 245, s. 65.

City or town council may prescribe further requirements as to tavern.

33. The council of any city or town may, by by-law to be passed before the 1st day of March in any year, prescribe for the then ensuing license year beginning on the 1st day of May, any requirements in addition to those prescribed by the next preceding two sections, as to accommodation to be possessed by taverns, as the council may see fit; and the Board upon receiving a copy of such by-law shall be bound to observe the provisions thereof; and such by-law shall continue in full force for such year and any future year until repealed. R.S.O. 1897, c. 245, s. 29.

Licenses not to be issued where accommodation not provided.

Exception as to certain railway restaurants.

34. No tavern license shall be issued to any tavern or other premises not having all the hotel accommodation required by law, but this shall not apply to an eating-house at or in a railway station for which a license has been issued and is now in force, and such license may hereafter in the discretion of the Board be issued although the premises in respect of which it is issued have not the hotel accommodation required by law. 9 Edw. VII. c. 82, s. 6.

Beer and wine licenses may be issued.

35. Upon application to any Board by any one or more persons within any municipality within the jurisdiction of such Board for a beer and wine license the Board may, before the 1st day of May in any year, by resolution declare that any one or more of the tavern licenses which may be lawfully issued, and which are to be issued for the license year beginning on the 1st day of May of such year not exceeding the number so applied for, may be beer and wine licenses, and the Board may thereafter cause beer and wine licenses to be issued in any such municipality, not exceeding the number mentioned in such resolution; but nothing in any such resolution shall so limit the number of tavern or shop licenses as to prohibit within any municipality the sale of spirituous liquors; and nothing in such beer and wine license, or by reason of the granting thereof, shall authorize the holder thereof, his servants or agents, to sell, barter or otherwise dispose of any kind of intoxicating liquors other than those mentioned in such beer and wine license. R.S.O. 1897, c. 245, s. 22.

Liquors not to be sold by holder of beer and wine license.

Beer and wine licenses.

36. A beer and wine license shall be construed to mean a tavern license for selling lager beer, ale, beer and porter and also native wines, manufactured in Ontario, containing not more than fifteen per cent. of alcohol, and light foreign wines containing not more than fifteen per cent. of alcohol but not including port, sherry or Madeira wine, in quantities of not more than one quart, to be drunk in the tavern in which the same is sold. R.S.O. 1897, c. 245, s. 23.

37. The holder of any such beer and wine license shall hold the same upon the terms and subject to all the conditions and penalties that apply to the holder of other tavern licenses; but such holder of a beer and wine license shall not sell, barter or give, or keep in the house or upon the premises for which such last mentioned license has been granted, any liquor for sale other than those thereby authorized; and as to such other liquor, the holder of such beer and wine license shall be deemed to be unlicensed, and section 132 shall apply. R.S.O. 1897, c. 245, s. 24.

Holder of
beer and
wine license
subject to
conditions of
tavern license.

38.—(1) If any holder of a beer and wine license, his servant, or agent, sells or barter, gives, or keeps in the house, or upon the premises, for which a license has been granted, liquor other than those mentioned in his license, for sale, or knowingly sells, or barter, gives or keeps in the house, or upon the premises for which a beer and wine license has been granted, native wine containing a greater quantity of alcohol than fifteen per cent. thereof, or light foreign wines containing a greater quantity of alcohol than fifteen per cent. thereof, or port, sherry, or Madeira wine, he shall incur the penalties provided by section 65; and in addition thereto upon a conviction for a second offence the Board may, by resolution, revoke and cancel his beer and wine license; and in the event of failure on its part so to do, application may be made by any resident of the municipality to the Judge of the County Court in the manner prescribed by section 81, which shall apply to such application, for an order to revoke and cancel the license; and if it appears to such Judge that the holder of any such beer and wine license has been twice convicted of having sold or given liquors other than those mentioned in the license, or of having kept the same upon or in the licensed premises, for sale, or of having knowingly sold or given native wine containing a greater percentage of alcohol than fifteen per cent. thereof, or light foreign wines containing a greater percentage of alcohol than fifteen per cent. thereof, or port, sherry or Madeira wine, as hereinbefore mentioned, or of having knowingly kept the same upon or in the licensed premises, the Judge shall make an order revoking and cancelling the license, and it shall be revoked and cancelled from the date of such order, or from the passing of the resolution by the Board.

Holder of
beer and
wine license
not to sell or
keep spirits
on premises
licensed.

(2) The percentage mentioned in the preceding subsection shall be determined by weight. R.S.O. 1897, c. 245, s. 25.

Determining
percentage.

(3) Any holder of a beer and wine license who has been convicted of selling liquor without the license therefor required by law, or contrary to the terms of his license, or of this Act, shall, in addition to any other penalty provided, if the Magistrate before whom the prosecution was heard, certifies that the offence was in his opinion, a wilful one, be disqualified from having or holding a liquor license for and

Persons
violating law
may be
disqualified
from holding
license.

during the then next succeeding license year, and any license granted to or obtained by any such person during such period shall be void. R.S.O. 1897, c. 245, s. 84.

Inspector may
test liquors
kept by
licensee.

(4) The Inspector may from time to time take from the liquors kept by a person holding a beer and wine license upon the premises sufficient thereof to determine whether they are of a different kind from those mentioned in the license, or contain more alcohol than is by law allowed. R.S.O. 1897, c. 245, s. 26.

Addition to
license fees
based on
receipts from
the bar.

39.—(1) In addition to the license fees payable for a tavern license, other than a beer and wine license, there shall be payable by the license holder a sum in the case of each license equal to five per cent. of the amount by which the gross receipts from sales under the license, wherever made, together with sales of cigars, cigarettes, tobacco or drinks or drinkable liquids other than liquor, or of any service or privilege, when made over, at, in or from the bar or bar-room of the licensed premises or for use or consumption at or in such bar or bar-room, in each day exceed the sum of \$60, in the case of cities having a population of over 100,000 and \$50 in all other cases. 1 Geo. V. c. 64, s. 1.

Monthly
returns of
receipts from
gross sales.

(2) On or before the tenth day of each month the holder of each such license shall file with the Minister a statement verified by affidavit, made by such person or persons and in such form as may be directed by the Minister, of the amount of his gross sales as aforesaid for each day of the preceding month and shall accompany such statement with payment of the amount, if any, due for such month under the provisions of subsection 1, and the affidavit may be taken before a commissioner for taking affidavits, a notary public or a justice of the peace, or the License Inspector for the License District in which such license holder resides. 1 Geo. V. c. 64, s. 2; 2 Geo. V. c. 55, s. 11.

Penalty
for not
making
returns or
payments.

(3) Notwithstanding anything in this section any holder of a tavern license who makes default in the filing of any statement or in the making of any payment required by this section shall incur a penalty of \$10 for each day during which such default continues, and so for each such default, though running concurrently with other defaults, but such penalty or any portion thereof may be remitted by the Minister in his discretion.

Cancellation
of license.

(4) Upon the report of the Minister that any such default has continued for more than thirty days or that the statement filed by the license holder is false or that the license holder has failed after notice to comply with any regulation made pursuant to subsection 5, an Order in Council may be passed cancelling his license and it shall thereupon become null and void to all intents and purposes whatsoever; and such Order in Council may further provide for the disquali-

fication for any period not exceeding three years of the holder of such license from obtaining any further or other license under this Act. 1 Geo. V. c. 64, s. 3.

(5) The Lieutenant-Governor in Council may from time to time make regulations which shall have all the effect of a statute and shall take effect from the date of the making thereof and may, amongst other things,

Regulations by
Lieutenant-
Governor-in-
Council.

- (a) require the keeping of accounts and the handling of cash by the license holder in such manner as may be directed and the furnishing by him of such further evidence as may be directed as to the correctness of the statement to be filed pursuant to this section;
- (b) provide for the holding of investigations into the correctness of such statement with such provisions as to the taking of evidence on oath, the summoning of witnesses, the enforcing of their attendance and the giving of testimony by them and the compelling of the production of books and documents, the disposition of the costs of the investigation and otherwise as may be thought desirable;
- (c) authorize entry upon the licensed premises, the examining and auditing of the accounts thereof and the taking over in whole or in part and for such time as may be required of the conduct of the business therein carried on for the purpose of enquiring as to the correctness of statements filed or to be filed pursuant to the provisions of this section, the whole with or without the consent of the holder of such license, and, if so directed, at his expense; and,
- (d) without being limited to the particulars above set forth, contain such provisions as shall be deemed desirable for ensuring the better enforcement of this section, and also contain provisions applicable to the holders of any license under this Act of the same general character as the provisions above specified though not required for the purposes above stated; and
- (e) provide for the enforcement of any of the regulations herein mentioned by suspension of the license of the holder in question until such holder has complied with such regulations. 1 Geo. V. c. 64, s. 4.

(6) The addition to the license duties made by this section shall not be taken into account in arriving at the sum payable for the transfer of a tavern license. 1 Geo. V. c. 64, s. 5.

Additional
duties not to
be considered.

Information
to be
confidential.

(7) Except as regards the total amount of license fees received under this section for each license district, information obtained under this section shall not be disclosed except to officers of the Government in the exercise of their duties. 1 Geo. V. c. 64, s. 6.

Application
of 6 Edw. VII.,
c. 47, s. 11.

(8) Subsection 5 of section 13 shall be read as applying to and having reference to the license fees otherwise payable and without the addition provided for in this section, and shall have full force and effect accordingly. 1 Geo. V. c. 64, s. 7.

Duties to be
payable for
use of the
Province.

(9) All sums payable under the provisions of this section shall be payable to the Treasurer of Ontario to and for the exclusive use of the Province. 1 Geo. V. c. 64, s. 8.

BARTENDERS' LICENSES.

"Bartender,"
meaning of.

40.—(1) The expression "bartender" as used in this section shall mean and include any person who sells or supplies liquor in the bar-room or other place from which liquor is dispensed to any person whomsoever in or upon any premises in respect of which a tavern license has been issued under this Part.

Employment
of unlicensed
bartenders
prohibited.

(2) No keeper of a licensed tavern in any city or town or in any locality in territory without county organization (called in this section a licensee) shall employ any bartender, or permit any person to act as such in or upon his licensed premises, who is not, during the whole time he is employed, or permitted so to act, the holder of a bartender's license, as provided by this section.

Penalty.

(3) Any licensee who contravenes the preceding subsection shall, for every day or portion of a day, during which such contravention continues, incur a penalty of not less than \$10 nor more than \$20 or imprisonment for a period not exceeding one month.

Acting as
bartender
without
license.

(4) Any person acting as a bartender in any city or town or in any locality in territory without county organization without first having obtained a license, as in this section provided, shall incur the same penalties as those prescribed in the case of a licensee, in the next preceding subsection; and in any prosecution brought under this subsection the onus of proving that he holds a bartender's license shall rest upon the defendant.

Penalty for
violation
of law by
licensed
bartender.

(5) Any person holding a bartender's license who sells or delivers, or causes to be sold or delivered, any liquor in contravention of any of the provisions of this Act, or of any by-law or regulations made under this Act, to any person whomsoever, shall incur a penalty not exceeding \$20 or imprisonment for one month.

(6) In addition to any other penalty which may be imposed upon a bartender for any offence under this Act, the Board may forthwith cancel the license of such bartender, who shall not thereafter be eligible to receive another license under this Act for any purpose whatever during the current license year and upon a conviction for a second offence of any nature within two years the license of such bartender shall *ipso facto* become void and he shall not thereafter be eligible to hold any license under this Act for two years.

Cancellation
of licenses
for offences.

(7) No bartender's license shall be issued to any person who is not of the full age of twenty-one years and of good character.

Licenses not
to be issued
to minors or
persons not
of good
character.

(8) No bartender's license shall be issued to any woman.

Nor to a
woman.

(9) The bartender's license may be according to Form 14 and may, subject to the conditions in this section mentioned, be obtained at any time on application to the Inspector, on payment therefor of the sum of \$2; and the Inspector may for any cause which he may consider sufficient refuse to issue such license, but the issue or refusal of a license to a bartender shall in all cases be subject to the approval of the Board.

Form of
license, fee
thereon.

(a) Such license shall only be valid during the currency of the license year in which it is issued and shall expire on the 30th day of the month of April then next ensuing.

Term of
license.

(b) All fees received for bartenders' licenses shall be paid into the License Fund of the License District in which the same are issued.

Application
of fees.

(c) No bartender's license shall be valid in any License District other than that in which the same was issued, unless and until it has been endorsed by the Inspector of some other License District, and such endorsement (for which no charge shall be made) shall give validity to such license in the License District in which the Inspector, who has endorsed the same, has jurisdiction, if such license has not been cancelled prior to the endorsement, but such Inspector may for any cause which he may consider sufficient withhold such endorsement, subject to the approval of the Board.

Endorsement
of license by
Inspector of
another
district.

(d) Every Inspector who issues or endorses a bartender's license shall enter a memorandum of the same in a book to be provided for the purpose, and such entry, as well as the entry of a memorandum that any such license has been cancelled, shall be *prima facie* evidence of the facts therein stated; and instead of the production of the book containing such entry, the presiding justice may

Record of
licenses
issued.

receive a certificate of any such entry as aforesaid, purporting to be signed by the proper Inspector, without requiring proof of the signature of such Inspector.

Production
of license
upon request
of Inspector.

- (e) Every licensed bartender shall produce his license forthwith on request of any Inspector or other official appointed by the Crown, or to any constable or police officer; and if such bartender refuses or neglects to make such production when required he shall incur a penalty not exceeding \$10 and costs and in default of payment shall be liable to imprisonment in the common jail of the county or district in which the offence was committed for any period not exceeding ten days, with or without hard labour.

Persons not
required to
have license.

- (10) Nothing in this section shall apply to or affect the sale or delivery of any liquor by the keeper of a licensed tavern, or by any male member of his family of the full age of twenty-one years, other than a domestic servant or other person in the employment of the licensee, nor shall anything in this section apply to or affect the delivery of liquor by any person in any place in a licensed tavern other than the bar-room or place from which liquor is dispensed.

Temporary
employment
of unlicensed
persons.

- (11) Notwithstanding anything in this section, a licensee may, in a case of temporary emergency, employ as bartender any male person of the full age of twenty-one years; but such employment shall not be upon more than two days, not necessarily consecutive, in any one month. 6 Edw. VII. c. 47, s. 6.

SHOP LICENSES.

Shop licenses,
to whom
granted.

41. A shop license shall not be granted to any person unless he has filed his application with the Inspector on or before the 1st day of April in that year, and has given the security required by section 13, and the Inspector has reported to the Board that he is a person of good character and that his shop and premises are suitable for carrying on a reputable business. R.S.O. 1897, c. 245, s. 31.

Number of
shop licenses
limited, and
licenses may
be subjected
to certain
restrictions.

- 42.—(1) The council of every town, village or township may, by by-law to be passed before the 1st day of April in any year, limit the number of shop licenses to be granted therein for the then ensuing license year, beginning on the 1st day of May, and, by such by-law or any other by-law passed before the 1st day of April, may impose any restrictions upon the mode of carrying on such traffic as the council may think fit, and such last-mentioned by-law may be made to come into force on the 1st day of May then next ensuing or on the 1st day of May of the succeeding year; and any such by-law so passed shall not be repealed during the three years next after the year in which the same comes into force. R.S.O. 1897, c. 245, s. 32 (1); 2 Geo. V. c. 55, s. 3.

(2) The clerk of a municipality in which such a by-law has been passed shall immediately after the passing of such by-law, send a certified copy thereof to the Board within whose License District the municipality is situate, and such by-law shall be binding upon the Board, and any shop license to be issued shall conform to the provisions thereof; and such by-law shall remain in force for any future year until repealed.

Certified copy to be sent to license commissioners.

(3) Any clerk who neglects, omits or refuses to send such certified copy shall incur a penalty of not less than \$40 nor more than \$100.

Penalty for neglect.

(4) All the provisions regarding the closing of licensed taverns and regarding sales and evidences of sales therein during prohibited hours shall apply to shops licensed in any municipality after the by-law secondly provided for in subsection 1 has come into force. R.S.O. 1897, c. 245, s. 32 (2-4).

Prohibited hours.

43.—(1) No shop license shall be granted to any person to sell liquor in any store, shop, place, or premises where groceries or other merchandise, other than mineral or aerated waters not containing spirits, ginger ale, liquor cases, bottles or liquor baskets, or packages, taps or faucets, are sold or exposed for sale, or in any store, place or premises connected by any internal communication with such first-mentioned store, shop, place or premises.

Limitation on issue of shop licenses.

(a) Nothing in this subsection shall prevent the holder of a shop license from keeping and selling cigars, in unbroken packages of not less than fifty cigars or fifty cigarettes, or five pounds of tobacco, to be taken away, and not to be used or consumed upon the premises.

Sale of cigars, cigarettes and tobacco in shops.

(2) If any commodity or goods, save as aforesaid, are sold or exposed for sale in any premises for which a shop license has been issued the license shall be void, and the holder of the license may be convicted of selling liquor without a license, upon proof that any commodity or goods, save as aforesaid, are exposed for sale or sold at such shop; and such conviction shall be conclusive evidence that such person has ceased to be the holder of a license. R.S.O. 1897, c. 245, s. 33 (1-2).

License void if other goods sold.

(3) The aforesaid mineral or aerated waters or ginger ale shall only be sold in original packages, and shall not be allowed to be consumed upon the licensed premises, under the same penalty as is provided for a breach of section 58. R.S.O. 1897, c. 245, s. 33 (3); 10 Edw. VII. c. 94, s. 1.

Mineral waters not to be consumed upon licensed premises.

CLUBS.

44.—(1) No liquor shall be sold or supplied by any incorporated society, association, or club, heretofore or hereafter formed, or by any member, officer or servant thereof, to any

Clubs not to sell without a license.

member of such society, association or club, or to any other person unless and until a license for the sale of liquor by such society, association or club has been duly issued as hereinafter provided. 6 Edw. VII. c. 47, s. 28 (1).

Fee for club license.

(2) A license to be known as a "Club License" may upon application therefor be issued at any time by the Board to any such society, association or club which is not by its charter of incorporation or otherwise prohibited from selling liquor to its members, upon payment of a fee of \$50, and such license shall remain in force until the 30th day of April then next ensuing, but the provisions of this Part, not expressly made applicable to such societies, associations or clubs, shall not apply thereto. 6 Edw. VII. c. 47, s. 28 (2); 9 Edw. VII. c. 82, s. 46.

Liquor not to be sold to non-members or minors.

(3) Nothing in this Act shall authorize the sale of liquor upon the premises of any such society, association or club to any person who is not a member thereof, nor to any person who is not of the full age of twenty-one years. 6 Edw. VII. c. 47, s. 28 (3).

Licenses not to be granted unless sale authorized by charter.

(4) No license shall be granted under this section to any society, association or club, which is prohibited by this Act, or by its charter of incorporation, or otherwise, from selling or supplying liquor to its members; nor shall any such license be granted to any society, association or club formed or incorporated under *The Act respecting Benevolent, Provident and other Societies*, being Revised Statutes of Ontario, 1897, chapter 211, and no license under this section shall be granted to any society, association or club not incorporated under the laws of the Province of Ontario until the consent in writing of the Minister to the granting of such license has been filed with the Board. 6 Edw. VII. c. 47, s. 28 (4); 7 Edw. VII. c. 46, ss. 2 and 9.

Certain clubs or societies not to sell liquors.

45.—(1) Any unincorporated society, association or club and any member, officer or servant thereof, or person resorting thereto, that sells liquor to any member thereof or to any other person without the license prescribed therefor by this Part, shall be held to have violated section 48 and shall incur the penalties provided for the sale of liquor without license. R.S.O. 1897, c. 245, s. 53 (1); 7 Edw. VII. c. 46, s. 4.

Keeping of liquor by clubs or societies a violation of section 49.

(2) The keeping or having in any house or building, or in any room or place occupied or controlled by such club, association or society, or any member or members thereof, or by any person resorting thereto, of any liquor for sale shall be a violation of section 49.

Consumption of liquor evidence of sale.

(3) Proof of consumption or intended consumption of liquor in such premises by any member of such club, association or society, or person who resorts thereto, shall be conclusive evidence of sale of such liquor, and the occupants of the premises or any member of the club, association or society, or

person who resorts thereto, shall be taken conclusively to be the person who has or keeps therein such liquor for sale; and any liquor found upon such premises shall be liable to seizure in the manner provided by this Act. R.S.O. 1897, c. 245, s. 53 (2-3).

REGULATIONS AND PROHIBITIONS.

46. Every license shall be constantly and conspicuously exposed in the shop or in the bar-room of the tavern in respect of which it has been granted under a penalty of \$5 for every day's wilful or negligent omission so to do, to be recovered with costs from the license holder so making default. R.S.O. 1897, c. 245, s. 47. Licenses to be kept exposed. Penalty.

47.—(1) Every person who keeps a tavern in respect of which a tavern license, except a beer and wine license, is in force, shall exhibit over the door of such tavern a sign bearing in large letters the words, "*Licensed to sell wine, beer and other spirituous or fermented liquors.*" R.S.O. 1897, c. 245, s. 48, *part*. Tavern keepers to exhibit notice of being licensed.

(2) In the case of the holder of a beer and wine license such sign shall bear in large letters the words, "*Licensed to sell beer and wine.*" Beer and wine licenses.

(3) Any person failing to comply with this section shall incur a penalty of \$5 with costs. R.S.O. 1897, c. 245, s. 48, *part*. Penalty.

48.—(1) No person shall sell by wholesale or retail any liquor without having first obtained a license under this Act authorizing him to do so; but this section shall not apply to sales under legal process or for distress, or sales by assignees in insolvency. No person shall sell liquors without license.

(2) No person unless duly licensed shall by any sign or notice hold himself out to the public as so licensed; and the use of any sign or notice for this purpose is hereby prohibited. Nor hold himself out as licensed.

(3) Subject to the provisions of section 21 and pending the proceedings therein mentioned, no penalty shall be incurred under this section by the heirs, executors, administrators or assigns of any licensed person who dies before the expiration of his license, or by the assignee or trustee of any licensed person who is insolvent or whose affairs are in process of liquidation during the currency of his license, in respect of the sale or exposure for sale of any liquor, if such sale or exposure for sale is made on the premises specified in such license and in the quantities therein authorized. R.S.O. 1897, c. 245, s. 49. Carrying on business for estate of licensee.

Persons not
to keep
spirituous,
etc., liquors
for sale unless
licensed.

49. No person shall keep or have in any house, building, shop, eating-house, saloon, or house of public entertainment, or in any room or place whatsoever, any liquor for the purpose of selling therein, unless duly licensed under the provisions of this Act; nor shall the occupant of any such shop, eating-house, saloon, or house of public entertainment, or any livery stable or other building to which the public are in the habit of resorting, unless duly licensed, permit any liquor whether sold by him or not, to be consumed upon the premises, by any person other than members of his family or employees, or guests not being customers. R.S.O. 1897, c. 245, s. 50; 3-4 Geo. V. c. 54, s. 3.

PROHIBITED SALES.

Sales
between
7 p. m. on
Saturday
and 8 a. m.
on Monday.

50. Subject to the provisions hereinafter contained, in every place where liquor is authorized to be sold by wholesale or retail, no sale or other disposal of liquor shall take place therein, or on the premises thereof, or out of or from the same, to any person whomsoever from or after the hour of seven of the clock in the afternoon of Saturday until eight of the clock in the forenoon of Monday thereafter, save and except in cases where a requisition for medical purposes, signed by a legally qualified medical practitioner, is produced by the vendee or his agent; nor shall any liquor, whether sold or not, be permitted or allowed to be drunk in any such place during the time prohibited for the sale of the same except by the occupant or some member of his family, or lodger in his house. 6 Edw. VII. c. 47, s. 13, *part*; 8 Edw. VII. c. 54, s. 1; 3-4 Geo. V. c. 54, s. 4.

Other pro-
hibited sales.

51. No sale or other disposal of liquor shall take place in any place where liquor is authorized to be sold by wholesale or retail, or on the premises thereof, or out of or from the same to any person whomsoever, save and except in cases where a requisition for medical purposes, signed by a legally qualified medical practitioner, is produced by the vendee or his agent, nor shall any such liquor whether sold or not, be permitted or allowed to be drunk in any such place, except by the occupant or some member of his family or lodger in his house, during the hours and upon the days following, that is to say:—

Closing hour
on ordinary
days.

(a) Between the hour in villages, townships and unorganized territory of ten o'clock, and in cities and towns of eleven o'clock, in the afternoon of any day of the week other than Saturday and Sunday and the hour of eight o'clock in the forenoon of the next day upon which liquor may be lawfully sold in such place;

Christmas
day and
polling days.

(b) During Christmas Day or any day on which a poll is being held throughout the municipality or in the electoral district or ward in which such place

is situate for or at any Parliamentary election or election of a member of the Legislative Assembly, or any municipal or school election, or under any Act of the Parliament of Canada, or of this Legislature or any municipal by-law respecting the prohibiting, restricting, regulating or affecting in any manner the sale of liquor. 6 Edw. VII. c. 47, s. 13, *part*; 8 Edw. VII. c. 54, s. 2; 10 Edw. VII. c. 94, s. 4; 3-4 Geo. V. c. 54, s. 5.

52.—(1) The keeper of any licensed tavern in a city, town or village, shall keep the bar-room or room in which liquor is trafficked in, closed as against all persons, other than those permitted to enter the same under clauses (a) and (b) of this section, during the hours or on the days in which the sale of liquor is prohibited by sections 50 and 51; and any keeper of such licensed tavern who allows or suffers any person or persons to frequent or to be present in such bar-room or room in which liquor is trafficked in during such hours or on such days, shall be guilty of an offence under this Act, unless it is established to the satisfaction of the police magistrate or other justice or justices before whom the prosecution is heard

Bar-rooms
to be kept
closed during
prohibited
hours.

(a) that the person so found frequenting, or present in the bar-room where liquor is trafficked in, as aforesaid, was at the time he or she so frequented or was present in such bar-room, a member of the family or household (other than a lodger, boarder, or guest) or a servant, or employee of such keeper actually engaged in necessary domestic occupation or service within the said bar-room; or

(b) that such person was present therein lawfully engaged in receiving or supplying liquor which might lawfully be sold during said prohibited hours. 6 Edw. VII. c. 47, s. 13, *part*; 9 Edw. VII. c. 82, s. 8.

(2) The word "keeper" when used in this section shall include the person actually contravening the provisions of this section, whether acting on behalf of himself or of another or others, and the actual offender as well as the keeper of the licensed tavern shall personally incur the penalties imposed for the contravention of this section; and at the prosecutor's option the actual offender may be prosecuted jointly with or separately from the keeper, but both of them shall not be convicted of the same offence, and the conviction of one of them shall be a bar to the conviction of the other of them therefor. 6 Edw. VII. c. 47, s. 13, *part*.

"Keeper,"
meaning of.

(3) The keeper of any licensed tavern who knowingly permits any liquor sold or otherwise disposed of on the licensed premises to be removed from such premises shall be guilty of an offence against this Part.

Keeper
allowing
liquor to be
sold for
removal.

Purchaser
of liquor
removed.

(4) Any person who having purchased or received any liquor at, or in a licensed tavern removes the same from the licensed premises in which the said liquor was so sold or received shall be guilty of an offence against this Part.

Medical
requisition.

(5) The provisions of the next two preceding subsections shall not apply in any case in which a requisition for medical purposes signed by a legally qualified medical practitioner is produced by the vendee or his agent, but such requisition shall not authorize the sale or delivery of more than six ounces. 3-4 Geo. V. c. 54, s. 6.

When person
other than
keeper of
house guilty.

53. Any person so found in the bar-room, or who has been present therein during the prohibited hours mentioned in the preceding section, and who does not come within the exceptions stated in that section, shall be guilty of an offence under this Act, and upon conviction thereof shall be liable to a penalty for each offence of not less than \$2 nor more than \$10, with costs and in default of payment thereof the defendant may be imprisoned for a period not exceeding thirty days. R.S.O. 1897, c. 245, s. 57.

Canvassing,
etc., by shop
licensees
prohibited.

54. Every person, whether licensed or unlicensed, who, by himself, his servant, or agent canvasses for, or receives, or solicits orders for liquor within any municipality in which a Local Option By-law is in force shall be guilty of an offence against this Act and shall incur the penalties provided for the sale of liquor without the license required by this Act. 6 Edw. VII. c. 47, s. 19; 9 Edw. VII. c. 82, s. 39.

Obtaining
liquor at
prohibited
times an
offence.

55.—(1) Every person, not being the occupant or a member of his family or a lodger in his house, who buys or obtains, or attempts to buy or obtain intoxicating liquor during the time prohibited by this Act for the sale thereof, in any place where the same is or may be sold by wholesale or retail, shall be guilty of an offence under this Act, and shall incur a penalty for each offence of not less than \$2 nor more than \$10, besides costs. R.S.O. 1897, c. 245, s. 59 (1).

Power to
exempt
witness from
penalty.

(2) Notwithstanding anything in this Act, any magistrate before whom any information or complaint is laid or made for the prosecution of any offence against any of the provisions of this Act, may, having regard to the demeanour of any witness and his mode of giving his evidence, by certificate in that behalf exempt such witness from the operation of subsection 1 and from all proceedings and penalties thereunder in respect of the subject matter of such information or complaint. R.S.O. 1897, c. 245, s. 59 (2); 9 Edw. VII. c. 82, s. 10.

Purchaser of
liquor when
guilty of an
offence.

56. The purchaser of any liquor from a person who is not licensed to sell the same, or any person who drinks upon the premises liquor so purchased, at the time of the purchase

thereof, shall be guilty of an offence under this Act. R.S.O. 1897, c. 245, s. 60.

57.—(1) If it is made to appear to the magistrate before whom any complaint under this Act is heard, that the person charged with the violation of section 55 or section 56 was acting as an officer whose duty it was to enforce the liquor license laws, or was acting under the instructions or authority of any Board, Inspector or Provincial officer, for the purpose of detecting a known or suspected offender against the liquor license laws, and of obtaining evidence upon which he might be brought to justice, the defendant shall not be convicted. R.S.O. 1897, c. 245, s. 61; 9 Edw. VII. c. 82, s. 11.

Provision where alleged violation of ss. 55 or 56 is committed in detecting breach of law.

(2) If upon any prosecution under this Act or under any regulation or by-law made or passed under this Act it appears from the evidence of any witness that such witness was unlawfully present at the time or place at which the offence was committed or did unlawfully procure or attempt to procure liquor at such time or place the magistrate before whom the prosecution is brought may, having regard to the demeanour of the witness and his mode of giving evidence, by certificate in that behalf exempt such witness from prosecution for such unlawful act; but no such exemption shall be granted to any person charged with the unlawful keeping for sale or other disposal of liquor nor to the keeper or occupant of premises upon which the offence in respect of which the prosecution is brought is alleged to have been committed. 6 Edw. VII. c. 47, s. 18.

Protection of witness who admits unlawful act.

58.—(1) No person holding a shop license shall allow any liquor sold by him or in his possession to be consumed within his shop, or within the building of which such shop forms part, or which communicates by any entrance with such shop, either by the purchaser thereof, or by any other person not usually resident within such building.

Shop license not to authorize liquor sold to be consumed in the house.

(2) Every person who contravenes the provisions of this section shall incur the penalty imposed by section 65. R.S.O. 1897, c. 245, s. 62, *part*.

Penalty.

59.—(1) No person shall by himself or his partner, servant, clerk, agent or otherwise, sell or deliver liquor of any kind to any person not entitled to sell liquor and who sells such liquor, or who buys for the purpose of re-selling, and any contravention of the foregoing provision shall be an offence under this Act.

Prohibition of sale to unlicensed persons.

(2) No person shall be convicted under this section who establishes to the satisfaction of the magistrate before whom the prosecution is heard that he had reason to believe and did believe that the person to whom the liquor was sold or delivered was licensed to sell such liquor, or did not sell liquor

Sale in good faith.

unlawfully, or did not buy to re-sell. R.S.O. 1897, c. 245, s. 64 (1-2).

Licensee not to purchase certain articles, or receive them in pledge.

Restitution may be ordered and enforced.

Taking or cashing time cheques for wages.

60.—(1) If any person holding a license purchases from any person any wearing apparel, tools, implements of trade or husbandry, fishing gear, household goods, furniture, or provisions either by way of sale or barter, directly or indirectly, the consideration for which, in whole or in part, is any liquor or the price thereof, or receives from any person any goods in pawn, any police magistrate, or any two justices of the peace, on sufficient proof on oath being made before him or them of the facts, may issue his or their warrant for the restitution of all such property, and for the payment of costs; and in default thereof the warrant shall contain directions for the levying by sale of the offender's goods to the value of such property so pawned, sold, or bartered, and costs, and the offender shall also incur a penalty not exceeding \$20. R.S.O. 1897, c. 245, s. 67.

(2) No tavern or shop licensee shall by himself or by any one on his behalf take or receive in payment or part payment for liquor, or cash or convert into money any time cheque, pay cheque, or order for money or money's worth issued in payment of wages or as a voucher therefor to any person not in the employment of such licensee. 2 Geo. V. c. 55, s. 5.

OFFENCES AND PENALTIES.

Not lawful to take money for certificate, etc.

61.—(1) No Board of any License District, nor any member of such Board, nor any Inspector, either directly or indirectly, shall receive, take, or have any money whatsoever, for any certificate, license, report, matter or thing connected with or relating to any grant of any license, other than the sum to be paid therefor as the fee under the provisions of this Part, or receive, take or have any note, security or promise for the payment of any such money or any part thereof from any person whomsoever.

Penalty.

(2) Any person guilty of, or concerned in, or party to any act, matter or thing contrary to the provisions of this section, or of subsections 1 and 3 of section 13 and section 26 shall for every such offence incur a penalty to and for the use of His Majesty, of not less than \$50, nor more than \$100, besides costs. R.S.O. 1897, c. 245, s. 68.

Penalty for issuing any license contrary to this Act.

62. Any member of a Board or any Inspector, officer or other person, who, contrary to the provisions of this Act, knowingly issues, or causes or procures to be issued, a tavern or shop license, or a certificate therefor, shall, for each offence incur a penalty of not less than \$40, or more than \$100, and in default of payment the offender may be

imprisoned in the common gaol of the county in which the conviction takes place for a period not exceeding three months. R.S.O. 1897, c. 245, s. 69.

63. If an officer of any municipal corporation is convicted of having knowingly committed any offence under this Act, he shall, in addition to any other penalty to which he may be liable under this Act, thereby forfeit and vacate his office and shall be disqualified from holding any office in any municipality in Ontario for two years thereafter. R.S.O. 1897, c. 245, s. 70. Forfeiture of office by municipal officer if convicted.

64.—(1) If a member of any municipal council is convicted of having knowingly committed any offence under this Act, he shall, in addition to any other penalty which he may incur under this Act, thereby forfeit and vacate his seat, and shall be ineligible to be elected to or to sit or vote in any municipal council for two years thereafter. Forfeiture of office by member of council if convicted.

(2) If any such person, after such forfeiture, sits or votes in any municipal council, he shall incur a penalty of \$40 for every day he so sits or votes. R.S.O. 1897, c. 245, s. 71. Penalty.

65.—(1) Any person who keeps for sale or sells or barter liquor without the license to sell the same required by law, shall for the first offence, on conviction thereof, incur a penalty of not less than \$100, besides costs, and not more than \$500 besides costs; and in default of payment thereof shall be imprisoned in the common gaol of the county in which the offence was committed, for a period of not less than three months, and be kept at hard labour, in the discretion of the convicting magistrate. Penalty for selling without license.

(2) For a second or any subsequent offence any person so offending shall upon conviction be imprisoned for a period of four months, to be kept at hard labour in the discretion of the convicting magistrate. R.S.O. 1897, c. 245, s. 72; 9 Edw. VII. c. 82, s. 12; 2 Geo. V. c. 55, s. 2. Punishments for second and subsequent offences.

66.—(1) Offences against section 50 shall be punishable Between 7 p. m. on Saturday and 8 a. m. on Monday.

(a) for the first offence by a fine of not less than \$50 nor more than \$100, or imprisonment for one month;

(b) for the second offence by a fine of not less than \$100 nor more than \$200, or imprisonment for three months;

(c) for the third offence by a fine of not less than \$200 nor more than \$400, or imprisonment for five months.

(2) Offences against section 51 shall be punishable

At other unlawful times.

- (a) for the first offence by a fine of not less than \$40 nor more than \$60, or imprisonment for twenty days;
- (b) for the second offence by a fine of not less than \$60 nor more than \$100, or imprisonment for forty days;
- (c) for the third offence by a fine of not less than \$100 nor more than \$200, or imprisonment for three months. 6 Edw. VII. c. 47, s. 14.

Medical practitioner not to give a requisition for liquor colourably.

67. Any medical practitioner who colourably gives a certificate or requisition for medical purposes, without which liquor could not be lawfully obtained to enable or for the purpose of enabling any person to obtain liquor to drink as a beverage, shall, for the first offence, incur a penalty of not less than \$10 nor more than \$20, and for a second or any subsequent offence, of not less than \$20 nor more than \$40. R.S.O. 1897, c. 245, s. 74; 6 Edw. VII. c. 47, s. 25 (5); 9 Edw. VII. c. 82, s. 13.

Requisition for obtaining liquor for medical purposes—particulars to be stated.

68.—(1) No holder of a tavern or shop license and no druggist shall sell or give, or supply liquor to any person upon the requisition of a medical practitioner unless such requisition is dated and addressed to him by name and states the kind and quantity of liquor and the purpose for which it is to be supplied and the name and address of the person to whom it is to be delivered, and if such person is not the person for whose use the liquor is to be procured, then the name and address of such last mentioned person. 6 Edw. VII. c. 47, s. 25 (1); 9 Edw. VII. c. 82, ss. 14, 40, *part*.

Limit of quantity.

(2) No such requisition shall authorize the sale or delivery to any person by a druggist or by the holder of a tavern or shop license of more than six ounces of liquor. 9 Edw. VII. c. 82, s. 41; 1 Geo. V. c. 64, s. 12.

Liability for giving improper requisition.

(3) Every medical practitioner who gives any such requisition without stating therein the particulars required by subsection 1 shall be guilty of an offence against this Act and shall incur the penalties provided by section 67. 6 Edw. VII. c. 47, s. 25 (2); 9 Edw. VII. c. 82, ss. 14, 40, *part*.

Liability for acting on improper requisition.

(4) Every holder of a tavern or shop license and every druggist who sells or supplies liquor to any person upon any such requisition in contravention of subsection 1 shall be guilty of an offence against this Act, and shall incur the same penalties as if such liquor had been sold or supplied without the requisition of a legally qualified medical practitioner. 6 Edw. VII. c. 47, s. 25 (3); 9 Edw. VII. c. 82, ss. 14, 40, *part*.

(5) Every requisition given under this Act by a medical practitioner shall be filed by the holder of a tavern or shop license or druggist to whom the same is delivered and shall at all times be open to inspection by the Inspector or by any Provincial officer on demand and to the inspection of any other person appointed by the Minister who produces the written authority of the Minister appointing him or directing such inspection. 6 Edw. VII. c. 47, s. 25 (4); 9 Edw. VII. c. 82, ss. 14, 40, *part*, 42.

Requisition
to be filed
and be open
for inspection.

69.—(1) Every tavern keeper failing or refusing, either personally or through any one acting on his behalf, except for some valid reason, to supply lodging, meals, or accommodation to travellers, shall for each offence incur a penalty not exceeding \$20. R.S.O. 1897, c. 245, s. 75.

Penalty for
refusing
lodging, etc.

(2) No tavern keeper shall be compellable to supply liquor to any person whomsoever except upon the order of a legally qualified medical practitioner. 2 Geo. V. c. 55, s. 6.

Tavern
keeper not
compellable
to supply
liquor.

(3) Every tavern keeper failing or refusing to obey the written directions of a Provincial Inspector given under the provisions of section 126 shall, for each day during which such failure or refusal continues, incur a penalty of \$5 and costs, and upon the report of such Provincial Inspector that any such tavern keeper has for a period of thirty days neglected to comply with such written directions or any of them an Order in Council may be passed cancelling the license held by such tavern keeper, and the same shall thereupon become null and void to all intents and purposes whatsoever. 9 Edw. VII. c. 82, s. 15.

Penalty for
refusing to
obey Inspector's
directions as to
accommodation.

70.—(1) If any person licensed under this Act permits drunkenness, or any violent, quarrelsome, riotous or disorderly conduct to take place on his premises, or sells, or delivers liquor to any drunken person, or permits and suffers any drunken person to consume any liquor on his premises or permits and suffers persons of notoriously bad character to assemble or meet on his premises, or suffers any gambling or any unlawful game to be carried on on his premises, he shall incur a penalty of not less than \$10 nor more than \$50. R.S.O. 1897, c. 245, s. 76.

Penalty for
permitting
drunkenness, etc.

(2) Any person so licensed may, if he has reasonable ground to suspect from the conduct of any person who has come upon his licensed premises, although not of notoriously bad character, that such person is present for some improper purpose, may request him or her to immediately leave such premises, and unless the request is forthwith complied with such person may be forcibly removed. 2 Geo. V. c. 55, s. 7.

When tavern
keeper may
request
persons to
leave
premises.

71.—(1) Every person who makes or uses, or allows to be made or used, any internal communication between any licensed premises and any unlicensed premises which are used for public entertainment or resort or as a refreshment house,

Penalty for
internal
communications
with
unlicensed
premises used
for public
resort.

shall incur a penalty of not less than \$10 nor more than \$50 for every day during which such communication remains open.

Penalty for allowing internal communication with premises in which other goods are sold.

(2) Any licensed shop-keeper who makes or uses or allows to be made or used, any internal communication between his licensed premises and any shop or premises in which other goods are sold, shall incur a penalty upon conviction for the first offence of not less than \$20 nor more than \$50 for every day, or part of a day, upon which such communication remains open, and in default of payment thereof, shall be imprisoned in the common gaol of the county in which the offence was committed, for a period of not less than one month, to be kept at hard labour in the discretion of the convicting Justice, and for a second offence upon conviction thereof his license shall, *ipso facto*, become forfeited and void. R.S.O. 1897, c. 245, s. 77.

Penalty for supplying liquor to minors.

72.—(1) Any person who gives, sells or otherwise supplies liquor to any person apparently or to the knowledge of the person giving, selling or otherwise supplying the same under the age of twenty-one years shall incur a penalty of not less than \$10 nor more than \$50, besides costs, or imprisonment for a period not exceeding three months, but nothing in this section shall apply to the supplying of liquor to a person under the age of twenty-one years by the parent, guardian or physician of such person. 7 Edw. VII. c. 46, s. 8.

Minors loitering in bar-rooms, etc.

(2) Any licensed person who, without proper cause suffers or permits any person of either sex, apparently or to the knowledge of such licensed person under the age of twenty-one years, unaccompanied by his or her parent or guardian, and not being a resident on the premises of such licensed person or a *bona fide* lodger or boarder, without good or sufficient reason, to linger or loiter in or about any bar-room or other room on such premises in which liquor is dispensed, shall for every such offence incur a penalty of not less than \$2 nor more than \$10, besides costs; and any such person so lingering or loitering as aforesaid without good and sufficient cause, and who is not a resident on the premises or a *bona fide* lodger or boarder, or who is not accompanied by his or her parent or guardian, shall incur a penalty of not less than \$2 nor more than \$10, besides costs. R.S.O. 1897, c. 245, s. 78 (4).

Minor compellable to disclose name of person who sold to him.

(3) Where upon any prosecution under this section for selling or supplying liquor it has been proved that liquor has been sold or supplied to a person under the age of twenty-one years, such person shall be compellable to disclose upon oath the name of the person from whom such liquor was obtained and the date when the same was so sold or supplied, and in case of a refusal he shall be guilty of an offence and may upon the order of the magistrate before whom the prose-

cution is brought be forthwith imprisoned for any period not exceeding three months unless he sooner discloses such information and pays the costs of his committal; and for the purpose of making such disclosure, he may at any time be brought before the same or any other magistrate or may disclose the said information by affidavit. 9 Edw. VII. c. 82, s. 16.

73.—(1) If any person having a license to sell liquor not to be drunk on the premises, himself takes or carries or employs or suffers any other person to take or carry, any liquor out of or from the premises of such licensed person for the purpose of being sold on his account or for his benefit or profit, and of being drunk or consumed in any other house, tent, shed or other building of any kind whatever, belonging to such licensed person or hired, used or occupied by him, or on or in any place whether enclosed or not, and whether or not a public thoroughfare, such liquor shall be deemed to have been consumed by the purchaser thereof, on the premises of such licensed person, with his privity and consent, and such licensed person shall incur the penalty provided by this Act.

Punishment for allowing liquor to be unlawfully consumed on premises.

(2) In any proceeding under this section it shall not be necessary to prove that the premises, or place, or places to which such liquor is taken to be drunk belonged to or were hired, used or occupied by the seller, if proof be given to the satisfaction of the court hearing the case, that such liquor was taken to be consumed thereon or therein with intent to evade the conditions of the license. R.S.O. 1897, c. 245, s. 79.

What proof of offence sufficient.

74.—(1) If any purchaser of any liquor from a person who is not licensed to sell the same to be drunk on the premises, drinks, or causes or permits any other person to drink such liquor on the premises where the same is sold, the seller of such liquor shall, if it appears that such drinking was with his privity or consent, incur for the first offence a penalty of not more than \$20, and for a second and any subsequent offence a penalty of not less than \$10 nor more than \$50.

Case of purchaser drinking liquor on premises where bought, etc.

First offence.

Second or subsequent offence.

(2) Any purchaser of liquor in a house or premises to which a shop license or wholesale license applies, who drinks or causes any one to drink, or allows liquor to be drunk in the shop or premises where the same has been purchased, shall be liable to a penalty of not less than \$10 nor more than \$20.

Penalty on purchaser in certain cases.

(3) For the purpose of this section the expression "premises where the same is sold" shall include any premises adjoining or near the premises where the liquor is sold, if belonging to the seller of the liquor, or under his control, or used by his permission. R.S.O. 1897, c. 245, s. 80.

Interpretation.

75. The mayor or police magistrate of a town or city, or the reeve of a township or village with any one justice of the peace, or any two justices of the peace having jurisdiction

Keepers of disorderly tavern subject to certain penalties.

in the township or village, upon information to them, or one of them respectively, that any keeper of any tavern situate within their jurisdiction, sanctions or allows gambling or riotous or disorderly conduct on such premises, may summon the keeper of such tavern to answer the complaint, and may investigate the same summarily, and either dismiss the complaint with costs to be paid by the complainant, or without costs, or convict the keeper of having an improper or a riotous or disorderly house, as the case may be, and annul his license, or suspend the same for not more than sixty days, with or without costs, as in his or their discretion may seem just; and if the keeper of any such tavern is convicted under this section, and his license annulled, he shall not be eligible to obtain a license for the period of two years thereafter and shall also incur the penalties prescribed by section 79. R.S.O. 1897, c. 245, s. 81.

Provisions
as to
harbouring
constables
on duty.

76. Any person licensed to sell liquor, or any keeper of the house, shop, room, or other place for the sale of liquor, who knowingly harbours or entertains any constable belonging to any police force, or suffers such person to abide or remain in his shop, room or other place during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbance, or restoring order, or otherwise in the execution of his duty, shall, for any of such offences, upon a first conviction incur a penalty of not less than \$50 nor more than \$100 and costs, and in default of payment shall be liable to imprisonment for one month, and upon a second conviction under this section his license shall be cancelled in the manner provided by section 81. R.S.O. 1897, c. 245, s. 82; 8 Edw. VII. c. 54, s. 3.

Penalty in
case any
person com-
promise,
compounds,
or settles a
case.

77.—(1) Any person who, having contravened any of the provisions of this Act, compromises, compounds or settles, or offers or attempts to compromise, compound or settle the offence with any person or persons, with the view of preventing any complaint being made in respect thereof, or if a complaint has been made with the view of getting rid of such complaint, or of stopping or having the same dismissed for want of prosecution or otherwise, shall be guilty of an offence under this Act, and on conviction thereof shall be imprisoned at hard labour in the common gaol of the county in which the offence was committed for the period of three months.

Penalties for
being con-
cerned in
any such
compromise,
etc.

(2) Every person who is concerned in, or is a party to, the compromise, composition or settlement mentioned in subsection 1 shall be guilty of an offence, and on conviction thereof shall be imprisoned in the common gaol of the county in which the offence was committed for the period of three months. R.S.O. 1897, c. 245, s. 83.

Penalty for
tampering
with a
witness.

78. Any person who, on any prosecution under this Act, tampers with a witness, either before or after he is summoned or appears as such witness on any trial or proceeding

under this Act, or by the offer of money, or by threats, or in any other way, either directly or indirectly, induces or attempts to induce any such person to absent himself, or to swear falsely, shall incur a penalty of \$50 for each offence. R.S.O. 1897, c. 245, s. 85.

79. Any person who contravenes any other provision of this Act, in respect of which contravention no other punishment is prescribed, shall for the first offence incur a penalty of not less than \$20 nor more than \$50, besides costs; and in default of payment thereof he shall be imprisoned in the common gaol of the county in which the offence was committed for a period not exceeding one month, and may be kept at hard labour in the discretion of the convicting magistrate; and for the second offence, on conviction thereof, such person shall incur a penalty of not less than \$40, nor more than \$60, besides costs, and in default of payment thereof he shall be imprisoned in the county gaol of the county in which the offence was committed, for a period not exceeding two months, and may be kept at hard labour, in the discretion of the convicting magistrate; and for the third or any subsequent offence, on conviction thereof, such person shall be imprisoned in such gaol for the period of three months, and may be kept at hard labour, in the discretion of the convicting magistrate. R.S.O. 1897, c. 245, s. 86.

Penalty for violations in cases not otherwise provided for.

80. In the event of the imprisonment of any person upon several warrants of commitment under different convictions in pursuance of this Act, whether issued in default of distress for a penalty or otherwise, the terms of imprisonment under such warrants shall be consecutive and not concurrent. R.S.O. 1897, c. 245, s. 87.

Imprisonment under different convictions.

REVOCATION OF LICENSES BY COUNTY JUDGE.

81.—(1) Upon the complaint of the Inspector or the Board or the Crown Attorney that a license has been issued contrary to any of the provisions of this Act or of any by-law in force in the municipality in which or in any part of which the license granted is intended to take effect or that such license has been obtained by fraud, or that the person licensed has been convicted on more than one occasion of any contravention of the provisions of section 75 or has been convicted on three several occasions of any contravention of any of the provisions of this Act, whether the offences in respect of which such convictions were made were the same or different in their character, provided such convictions were for offences committed on different days, or that any licensee has been guilty of a second offence under section 76, the Judge of the County Court of the county in which such municipality is situate, shall summon the person to whom such license was issued to appear, and shall hear and determine the matter of such complaint in a summary manner, and may upon such hearing, or in default of appear-

Power of County Judge where license improperly obtained or licensee convicted of offence against Act.

ance of the person summoned, adjudge that such license, for any of the causes aforesaid, ought to be revoked, and thereupon shall order that the same be revoked and cancelled accordingly; and thereupon the license shall be and become inoperative and of no effect, and the person to whom such license issued shall thereafter, during the full period of two years, be disqualified from obtaining any further or other license under this Act. R.S.O. 1897, c. 245, s. 91; 8 Edw. VII. c. 54, s. 4.

Procedure
under
preceding
section.

(2) The complaint in the preceding subsection mentioned, may be by a petition, concisely expressed, to the Judge entitled "In the County Court of the County of ——" and "In the matter of the license granted to (*naming the defendant*)" praying for the revocation of such license; and upon hearing the evidence adduced, or upon default of appearance of the prosecutor or defendant, the Judge may dismiss the matter of the complaint or make such order as he deems just, with or without costs to be paid by the prosecutor or defendant, and the order on the adjudication of the Judge shall be final. R.S.O. 1897, c. 245, s. 92.

CANCELLATION OF LICENSES BY THE BOARD.

Board to
cancel
licenses
after three
convictions
within two
years.

82.—(1) After three several convictions within a period of two years for offences against sections 25, 50, 51 or 52 or any other section of this Act for the contravention of which the penalty or punishment is provided by section 65 or section 79, whether such convictions were for the same offence or for different offences provided the second of such convictions was for an offence committed after the first of such convictions and the third of such convictions was for an offence committed after such second conviction, the Board shall within one month from the date of the last of such convictions, or, in the event of an appeal from such conviction and the confirmation thereof upon such appeal then within one month from the date of the judgment in such appeal, by resolution declare that the license held by any license holder so convicted is cancelled and revoked; and thereupon such license shall become inoperative and void and such license holder shall thereafter for the full period of three years be disqualified from obtaining or holding any further or other license under this Act; but nothing in this section shall affect the liability to forfeiture of a license in any other case provided for by this Act, nor relieve the offender from any other penalty imposed by this Act.

Liability of
Board
refusing or
neglecting
to act.

(2) If the Board refuses or neglects to declare such license cancelled after having been notified in writing so to do by the Minister or by any municipal elector of the municipality in which the license premises are situate, the members of the Board shall severally incur a penalty of \$100 which may be recovered with full costs of suit in an action by any person who may sue therefor, to be tried by a Judge

without a jury; and one-half of every penalty so recovered shall be paid to His Majesty for the uses of the Province and one-half shall be paid to the person bringing such action; but no member of the Board shall incur such penalty and costs, if he shows to the court at the trial of such action that he voted for the cancellation of such license or did all that could be done by him to procure such cancellation.

(3) The Inspector shall report to the Board every conviction of a holder of a tavern or shop license for a contravention of this Act, and in such report shall state the section of this Act under which such license holder was convicted and the penalty imposed, and the Board shall cause a book to be kept in which shall be recorded against the name of each license holder the report of every such conviction.

Inspector to report convictions to Board.

(4) If the Inspector knowingly or wilfully contravenes the provisions of the preceding subsection he shall incur a penalty of not less than \$50 nor more than \$100 besides costs.

Penalty for neglect to report.

(5) If the Minister receives information that the holder of any license for premises situated in a provisional judicial district is habitually disregarding the law by keeping such premises in an unclean, unsanitary or unsuitable condition or by allowing drunken, disreputable or disorderly persons to resort thither, or by any other contravention of the provisions of this Act, or by supplying or allowing liquor to be supplied to Indians contrary to any Act of the Parliament of Canada, the Minister may detail a special officer or some officer of his Department to enquire into the matter; and upon the report of such officer that such licensed premises are so kept, or that it appears that habitual contraventions of this Act or of any such Act of the Parliament of Canada are being committed by the license holder, the Minister may cancel the license, and such license holder shall thereafter be disqualified for a period of two years from receiving or holding any license under this Act. 6 Edw. VII. c. 47, s. 22.

Minister may cancel license in provisional judicial districts.

PROSECUTIONS.

83. Any person may be prosecutor or complainant in prosecutions under this Act. R.S.O. 1897, c. 245, s. 94.

Any person may be prosecutor, etc.

84. All informations or complaints for the prosecution of any offence against any of the provisions of this Act, shall be laid or made in writing, within thirty days after the commission of the offence or after the cause of action arose, and not afterwards, before any Justice of the Peace for the county in which the offence is alleged to have been committed, and may be made without any oath or affirmation to the truth thereof, and the same may be according to Form 5, or to the like effect. R.S.O. 1897, c. 245, s. 95.

Information.

When to be laid.

Form.

License Commissioners or Inspectors who are Justices are prohibited from trying certain complaints.

85. No License Commissioner or Inspector who is a Justice of the Peace shall try or adjudicate upon any complaint for a contravention of any of the provisions of this Act committed within the limits of the License District for which he is a License Commissioner or Inspector; but this section shall not be construed to apply to a Judge, or Junior Judge or Deputy Judge of a county. R.S.O. 1897, c. 245, s. 96.

Certain prosecutions to be before a Justice.

86.—(1) Except as otherwise expressly provided, all prosecutions for the punishment of any offence against this Act alleged to have been committed by a licensee or on or with respect to premises for which a license has been issued and is in force may take place before a justice of the peace in and for the county in which the offence was committed.

All other prosecutions may be before two or more Justices.

(2) All prosecutions under this Act, other than those provided for in subsection 1, whether for the recovery of a penalty or otherwise, shall take place before two or more justices of the peace or a police magistrate having jurisdiction. R.S.O. 1897, c. 245, s. 97.

Evidence to be taken in writing.

87.—(1) The Magistrate shall cause the depositions of the witnesses examined before him to be written in a legible hand and on one side only of the sheet of paper on which they are written, and shall read the same over to the witnesses, who shall sign the same.

Stenographer may be employed.

(2) Instead of proceeding as provided in subsection 1 a stenographer may, with the consent of the Magistrate, be employed to take down the evidence or any part thereof in shorthand, and the stenographer before acting shall take oath that he will truly and faithfully report the evidence.

When so taken have copies verified.

(3) Where evidence is taken in shorthand it shall not be necessary that the same shall be read over to or be signed by the witness, but it shall be sufficient if the transcript is signed by the Magistrate and is accompanied by an affidavit of the stenographer that it is a true report of the evidence. 9 Edw. VII. c. 82, s. 19.

PROCEDURE IN CASES WHERE PREVIOUS CONVICTIONS CHARGED.

Proceedings in cases where a previous conviction charged.

88.—(1) Upon any information for committing an offence against any of the provisions of this Act, in case of a previous conviction or convictions being charged, the Magistrate shall in the first instance inquire concerning such subsequent offence only, and if the accused be found guilty thereof, he shall then, if present, be asked whether he was so previously convicted, as alleged in the information, and if he answers that he was so previously convicted, he may be sentenced accordingly; but if he denies that he was so

previously convicted, or stands mute of malice, or does not answer directly to such question, or if he is not present, the magistrate shall then inquire concerning such previous conviction or convictions. R.S.O. 1897, c. 245, s. 101, par. 1; 9 Edw. VII. c. 82, s. 20; 1 Geo. V. c. 64, s. 14.

(2) The number of such previous convictions shall be proved by the production of a certificate under the hand of the convicting magistrate, or of the clerk of the peace, without proof of his signature or official character, or by other satisfactory evidence. Number of previous convictions how proved.

(3) Convictions for several offences may be made under this Act, although such offences may have been committed on the same day; but the increased penalty or punishment hereinbefore imposed shall only be recoverable in the case of offences committed on different days, and after conviction for a first offence. Offences on same day.

(4) In the event of a conviction for any second or subsequent offence becoming void or defective, after the making thereof, by reason of any previous conviction being set aside, quashed, or otherwise rendered void, the magistrate by whom such second or subsequent conviction was made, may by warrant under his hand summon the person convicted to appear at a time and place to be named in such warrant, and may thereupon, upon proof of the due service of such warrant, if such person fails to appear, or on his appearance, amend such second or subsequent conviction, and adjudge such penalty or punishment as might have been adjudged had such previous conviction never existed, and such amended conviction shall thereupon be held valid for all intents and purposes, as if it had been made in the first instance. In case of a second or subsequent conviction becoming irregular by quashing of a first or previous conviction. Power to amend; and amended conviction valid.

(5) If any person who has been convicted of a contravention of any provisions of any of the sections of this Act, numbered 48, 49 or 175, or any section for the contravention of which a penalty or punishment is prescribed by section 65 or section 79, is afterwards convicted of an offence against any provision of any of the said sections, such conviction shall be deemed a conviction for a second offence, within the meaning of section 65 or section 79, as the case may be, and may be dealt with and punished accordingly, although the two convictions may have been under different sections; and if any such person is afterwards again convicted of a contravention of any provision of any of the said sections, whether similar or not to the previous offences, such convictions shall in like manner be deemed a conviction for a third offence, within the meaning of section 65 or section 79, as the case may be, and may be dealt with and punished accordingly. R.S.O. 1897, c. 245, s. 101, pars. 2, 4, 5 and 6. Second offence, meaning of. Third offence.

Duty of
Inspector as
to second
offences.

89.—(1) Whenever a prosecution is brought against any person under this Act for an offence of which he has been previously convicted and for which a different or greater penalty is imposed in the case of a second or any subsequent offence, the Inspector shall prosecute as for a second or subsequent offence according to the fact.

Penalty.

(2) Any Inspector who knowingly or wilfully contravenes the provisions of this section shall incur a penalty of not less than \$20 nor more than \$50. 6 Edw. VII. c. 47, s. 17 (1-2).

FORM OF INFORMATION AND OTHER PROCEEDINGS—
AMENDMENTS.

Description
in informa-
tions.

90. In describing offences respecting the sale or other disposal of liquor, or the keeping, or the consumption of liquor, in any information, summons, conviction, warrant, or proceeding under this Act, it shall be sufficient to state the sale, disposal, keeping or consumption of liquor simply, without stating the name or kind of such liquor, or the price thereof, or any person to whom it was sold or disposed of, or by whom it was consumed; and it shall not be necessary to state the quantity of liquor so sold, disposed of, kept, or consumed, except in the case of offences where the quantity is essential, and then it shall be sufficient to allege the sale or disposal of more or less than such quantity. R.S.O. 1897, c. 245, s. 102.

Forms.

91. The Forms appended to this Act, or any forms to the like effect, shall be sufficient in the cases thereby respectively provided for, and, where no forms are prescribed, new ones may be framed to meet the circumstances of the case, conforming as nearly as may be to those employed in proceedings under *The Ontario Summary Convictions Act* such forms being made short and concise in the mode indicated by the Forms appended to this Act. R.S.O. 1897, c. 245, s. 103.

Rev. Stat.
c. 90.

Amending
information.

92.—(1) Notwithstanding anything in this Act, the magistrate, at any time before judgment, may amend or alter any information, and may substitute for the offence charged therein any other offence against the provisions of this Act; but if it appears that the defendant has been prejudiced by such amendment, the magistrate shall thereupon adjourn the hearing of the case to some future day, unless the defendant waives such adjournment. R.S.O. 1897, c. 245, s. 104.

Person
charged with
sale may be
convicted of
keeping
for sale

(2) Where a person is charged with a sale of liquor in contravention of this Act, and it appears to the magistrate that there is no evidence of sale of liquor having taken place, but that liquor was found upon the premises of or in posses-

sion or control of the person charged, and that the same was kept for sale in contravention of this Act, he may amend the information and may convict the defendant for keeping liquor for sale in contravention of this Act. 9 Edw. VII. c. 82, s. 21.

93. Notwithstanding anything in this Act where a pecuniary penalty is imposed, the magistrate may in his discretion order that in default of payment of the penalty distress shall issue for the recovery thereof or he may if he sees fit order that in default of immediate payment of the penalty the offender shall be committed to gaol for such period as may be allowed by law. 9 Edw. VII. c. 82, s. 22.

Power to
issue dis-
tress on non-
payment of
penalty.

INFORMALITIES IN CONVICTIONS, ETC.

94.—(1) No conviction or warrant enforcing the same or other process or proceeding under this Act shall be held insufficient or invalid by reason of any variance between the information or conviction, or by reason of any other defect in form or substance, if it can be understood from such conviction, warrant, process or proceeding that the same was made for an offence against some provision of this Act, within the jurisdiction of the magistrate who made or signed the same, and if there is evidence to prove the commission of such offence. 6 Edw. VII. c. 47, s. 30, *part*; 9 Edw. VII. c. 82, s. 23.

Conviction
not void for
certain
defects.

(2) Upon any application to quash such conviction, or warrant enforcing the same or other process or proceeding, whether in appeal or upon *habeas corpus*, or otherwise, the Court or Judge to which such appeal is made or to which such application has been made upon *habeas corpus* or otherwise, shall dispose of such appeal or application upon the merits, notwithstanding any such variance or defect as aforesaid, and in all cases where it appears that the merits have been tried, and that the conviction, warrant, process or proceeding is sufficient and valid under this section or otherwise, such conviction, warrant, process or proceeding shall be affirmed, or shall not be quashed, as the case may be, and such Court or Judge may, in any case, amend the same if necessary, and any conviction, warrant, process or proceeding so affirmed or affirmed and amended, shall be enforced in the same manner as convictions affirmed on appeal, and the costs thereof shall be recoverable as if originally awarded. 6 Edw. VII. c. 82, s. 30, *part*.

May be
amended.

(3) If it appears to the Court or Judge that the magistrate before whom any complaint or other proceeding under this Act was heard or taken, refused to receive evidence which might have been material, the Court or Judge, instead of quashing the conviction or other proceeding, may remit the same to the magistrate with direction to re-hear the case

Remitting
case to
magistrate for
rehearing.

and with such other directions as the Court or Judge may think proper, and the magistrate shall re-hear the complaint accordingly. 9 Edw. VII. c. 82, s. 24, *part*.

Limitation
of time as
to proceed-
ings to quash.

95. No motion to quash a conviction or order made under this Act shall be heard by the Court or Judge to which such application is made unless notice of such motion has been served within twenty days from the date of the conviction or order. 9 Edw. VII. c. 82, s. 25.

EVIDENCE, ETC.

License, how
proved.

96. In any prosecution or proceeding under this Act, in which proof is required respecting any license, a certificate under the hand of the Inspector of the License District shall be *prima facie* proof of the existence of a license, and of the person to whom the same was granted or transferred; and the production of such certificate shall be sufficient *prima facie* evidence of the facts therein stated and of the authority of the Inspector, without any proof of his appointment or signature. R.S.O. 1897, c. 245, s. 106.

How resolu-
tions authen-
ticated, etc.

97. Any resolution of the Board passed under section 6 shall be sufficiently authenticated by being signed by the chairman of the Board which passed the same; and a copy of any such resolution certified to be a true copy by any member of such Board, shall be deemed authentic and be received in evidence in any Court without proof of any such signature, unless it is specially pleaded or alleged that the signature to any such original resolution has been forged. R.S.O. 1897, c. 245, s. 107.

Places in
which the
sale of liquor
is presumed.

98. Any house, shop, room or other place, in which are proved to exist a bar counter, beer pumps, kegs, jars, decanters, tumblers, glasses or any other appliances or preparations similar to those usually found in taverns and shops where spirituous or fermented liquors are accustomed to be sold or trafficked in, shall be deemed to be a place in which liquor is kept or had for the purpose of being sold, bartered or traded in, within the meaning of section 49, unless the contrary is proved by the defendant in any prosecution; and the occupant of such house, shop, room or other place shall be taken conclusively to be the person who has, or who keeps therein, such liquor for sale, barter or traffic therein. R.S.O. 1897, c. 245, s. 108.

Presumption
as to occu-
pant.

Having bar
appliances,
when to be
conclusive
evidence of
sale.

99. Where upon a prosecution of any person under this Act for the sale or keeping for sale of liquor without the license required by law the magistrate before whom such prosecution is brought finds that liquor exceeding two gallons in quantity was kept upon the premises occupied by such person, the keeping or having upon such premises of

any beer pump or other appliance commonly used in a bar-room shall be conclusive evidence that such liquor was kept upon the premises for sale. 6 Edw. VII. c. 47, s. 15.

100. In proving the sale or disposal, gratuitous or otherwise, or consumption of liquor for the purpose of any proceeding relative to any offence under this Act, it shall not be necessary to show that any money actually passed, or any liquor was actually consumed, if the magistrate or Court hearing the case is or are satisfied that a transaction in the nature of a sale or other disposal actually took place or that any consumption of liquor was about to take place; and proof of consumption or intended consumption of liquor on premises under license or in respect to which a license is required under this Act, by some person other than the occupier of said premises, shall be evidence that such liquor was sold to the person consuming or being about to consume or carry away the same, as against the holder of the license or the occupant of the said premises. R.S.O. 1897, c. 245, s. 109; 9 Edw. VII. c. 82, s. 26.

Evidence as to sale, etc., of liquor.

101. In cities, towns and villages, in all cases where gas or other light is seen burning in the bar-room of a tavern where liquor is trafficked in, at any time during which the sale or other disposal of liquors is prohibited by any provision of this Act, any such fact, when proved, shall be deemed and taken as *prima facie* evidence that a sale or other disposal of liquor by the keeper of such tavern or other place has taken place contrary to the provisions of this Act. R.S.O. 1897, c. 245, s. 110.

Light in bar prima facie evidence of sale.

102.—(1) Any person, not being the holder of a license under this Part, keeping up any sign, writing, painting or other mark, in or near to his house or premises, or having such house fitted up with a bar or other place containing bottles or casks displayed so as to induce a reasonable belief that such house or premises is or are licensed for the sale of any liquor, or that liquor is sold or served therein, or that there is on such premises more liquor than is reasonably required for the persons residing therein, shall be guilty of an offence against this Act. R.S.O. 1897, c. 245, s. 111 (1); 2 Geo. V. c. 55, s. 9.

What shall be deemed evidence of unlawful sale.

(2) Proof that any person, not being a licensed person, who furnishes food or lodging to lodgers, boarders or guests, or who conducts a house or other place in which persons reside who are not in his employment or members of his family, has upon the premises occupied by him a greater quantity of liquor than may be reasonably supposed to be intended for the use of such person and his family, shall be conclusive evidence that such liquor is kept for sale in contravention of this Act. 9 Edw. VII. c. 82, s. 27.

Possession of an excessive quantity of liquor.

Liability of
occupants.

103.—(1) The occupant of any house, shop, room or other place in which any sale, barter or traffic of spirituous, fermented or manufactured liquors, or any matter, act or thing in contravention of any of the provisions of this Act, has taken place, shall personally incur the penalties prescribed by this Act, notwithstanding that such sale, barter or traffic is made by some other person, who cannot be proved to have so acted under or by the directions of such occupant, and proof of the fact that such sale, barter or traffic, or other act, matter or thing, by any person in the employ of such occupant, or who is suffered to be or to remain in or upon the premises of such occupant, or to act in any way for such occupant, shall be conclusive evidence that such sale, barter or traffic, or other act, matter or thing, took place with the authority and by the direction of such occupant.

Person sell-
ing as well as
"occupant"
to be liable.

(2) The person actually selling, or otherwise contravening any of the provisions of this Act, as in this section mentioned, is for the purposes hereof styled "the actual offender," whether acting on behalf of himself or of another or others, and the actual offender, as well as the occupant, shall personally incur the penalties prescribed by this Act; and at the prosecutor's option the actual offender may be prosecuted jointly with, or separately from, the occupant, but both of them shall not be convicted of the same offence, and the conviction of one of them shall be a bar to the conviction of the other therefor. R.S.O. 1897, c. 245, s. 112 (1-2).

(3) For the purposes of this section, any person being an owner or lessee in actual occupation and possession of the premises, or anyone who, being in actual occupation and possession, leases or sub-lets any part thereof in which liquors are kept for sale, barter or trading therein, or in which they are sold or consumed, shall be deemed to be an occupant, unless such leasing or sub-letting shall have received the consent in writing of the Board; and in the event of the premises being an unlicensed tavern, the owner or lessee, or other person having control of the premises, whether in or out of possession, who sub-lets to or permits to be occupied by any other person any part of the premises in which liquor is sold or kept for sale, shall be conclusively held to be an occupant within the meaning of this section and may be prosecuted jointly with or separately from the actual offender, but both of them shall not be convicted of the same offence, and the conviction of one of them shall be a bar to the conviction of the other therefor. R.S.O. 1897, c. 245, s. 112 (3); 7 Edw. VII. c. 46, s. 5; 8 Edw. VII. c. 54, s. 6.

In prosecu-
tions for sale
without
license certain
presumptions
sufficient to
put defend-
ant on his
defence and
convict him
in default of
rebuttal.

104. In any prosecution under this Act for the sale or other disposal of liquor without the license required by law, it shall not be necessary that any witness depose directly to the precise description of the liquor sold or bartered or the precise consideration therefor, or to the fact of the sale or other disposal having taken place with his participation or to his own personal and certain knowledge, but the magis-

trate trying the case, so soon as it appears to him that the circumstances in evidence sufficiently establish the contravention of this Act complained of, shall put the defendant on his defence, and in default of his rebuttal of such evidence shall convict him accordingly. R.S.O. 1897, c. 245, s. 113.

105.—(1) In any prosecution under this Act, whenever it appears that the defendant has done any act or been guilty of any omission in respect of which, were he not duly licensed, he would incur a penalty under this Act, it shall be incumbent upon the defendant to prove that he is duly licensed, and that he did the said act lawfully.

(2) The production of a license which on its face purports to be duly issued, and which, were it duly issued; would be a lawful authority to the defendant for such act or omission, shall be *prima facie* evidence that the defendant is so entitled, and in all cases the signature to and upon any instrument purporting to be a valid license shall *prima facie* be taken to be genuine. R.S.O. 1897, c. 245, s. 114.

106. In any prosecution under this Act the production by the Inspector or any officer of the Crown of a certificate signed or purporting to be signed by the Government analyst as to the analysis of any liquor and of an affidavit attesting the signature of such analyst, shall be conclusive evidence of the facts stated in such certificate. 6 Edw. VII. c. 47, s. 16.

Witnesses.

107. In any prosecution under this Act the magistrate, trying the case may summon any person represented to him as a material witness in relation thereto; and if such person refuses or neglects to attend pursuant to such summons, the magistrate may issue his warrant for the arrest of such person; and he shall thereupon be brought before the magistrate, and if he refuses to be sworn or to affirm, or to answer any question touching the case, he may be committed to the common gaol of the county, there to remain until he consents to be sworn or to affirm and to answer. R.S.O. 1897, c. 245, s. 115.

108. Any person summoned as a party to, or as a witness in any proceeding under this Act, may, by the summons, be required to produce, at the time and place appointed for his attendance, all books and papers, accounts, deeds and other documents in his possession, custody or control, relating to any matter connected with the said proceeding, saving all just exceptions to such production; and shall incur the same penalties for non-production of such books, papers or documents, as he would incur by refusal or neglect to attend, pursuant to such summons, or to be sworn or to answer any question touching the case. R.S.O. 1897, c. 245, s. 116.

Inspector's expenses to be allowed for attending court. 27-28 Viet. c. 18.
R. S. C., c. 152.

109.—(1) In any prosecution under this Act, or *The Temperance Act of 1864*, or the second part of *The Canada Temperance Act*, if the Inspector attends the court as prosecutor or witness and travels to attend such court a distance of more than three miles from his place of residence, the Magistrate trying the case may tax against the defendant, in case of conviction, as costs in the cause to cover railway fare or hire of conveyance of the Inspector in attending the said prosecution,

Railway or stage fare.

(a) if the Inspector travels by railway or stage, the fares actually required to be paid by him;

Hired conveyance.

(b) if by a hired conveyance, the sums actually required to be paid for a horse, conveyance and tolls;

His own conveyance.

(c) if in his own conveyance, ten cents per mile one way;

Other expenses.

(d) to cover all other expenses \$1 per day; and

Adjournments.

(e) in cases of adjournment at the instance of the defendant, similar additional allowances, where the Inspector is actually in attendance.

Verification.

(2) The mileage or other expenses shall be verified by the affidavit of the Inspector.

Inspector to make quarterly returns.

(3) The Inspector shall make quarterly returns in detail under oath to the Minister of all sums received by him for mileage, and other expenses, in this section provided for. R.S.O. 1897, c. 245, s. 117.

APPEALS.

Conviction of Justice final except as otherwise provided.

110.—(1) In any prosecution for any offence against any provision of this Act for which any penalty or punishment is prescribed, a conviction or order of the Magistrate, except as hereinafter mentioned, shall be final and conclusive.

Procedure on appeals.

(2) Subject to the provisions of the following subsections an appeal shall lie to the Judge of the County Court of the county in which the conviction is made, sitting in Chambers without a jury, in all cases where the person convicted is a licensee or the conviction is for any offence committed on or with respect to premises licensed under this Act, if a notice of such appeal is given to the prosecutor or complainant within five days after the date of the conviction.

Appellant to enter into a recognizance.

(3) The person convicted, in case he is in custody, shall either remain in custody until the hearing of such appeal before the Judge, or, where the penalty of imprisonment with or without hard labour is adjudged, shall enter into a recognizance with two sufficient sureties, in the sum of \$200 each, before the convicting magistrate, conditioned personally to appear before the Judge, and to try such appeal and abide by his judgment thereupon, and to pay

such costs as he may order; and if the appeal is against a conviction whereby only a penalty or sum of money is adjudged to be paid, the appellant may, although the order directs imprisonment in default of payment, instead of remaining in custody as aforesaid, enter into such recognizance, or may deposit, with the magistrate convicting, the amount of the penalty and costs, and a further sum of \$25 to answer the respondent's costs of appeal.

(4) Upon such recognizance being entered into or deposit made, the magistrate shall liberate such person if in custody and shall forthwith deliver or transmit by registered post, the depositions and papers in the case, with the recognizance or deposit, as the case may be, to the clerk of the County Court of the county wherein such conviction was had.

(5) The appellant shall pay to the clerk of the County Court, for his attendance and services in connection with such appeal, the sum of \$1, and the same may be taxed as costs in the cause.

(6) An appeal shall lie to the Judge of the County Court of the county in which an order of dismissal is made, sitting in Chambers without a jury, where the Attorney-General of Ontario so directs in all cases in which an order has been made by a magistrate dismissing an information or complaint laid by an Inspector or any one on his behalf for contravention of any of the provisions of this Act if notice of such appeal is given to the defendant or his solicitor within fifteen days after the date of such order of dismissal.

(7) Within ten days after service of the notice of appeal the Judge shall grant a summons calling upon the defendant and the magistrate making the order to show cause why the order of dismissal should not be reversed and the case reheard.

(8) Upon the return of the summons the Judge, upon hearing the parties, may either affirm or quash the order, or if he thinks fit may hear the evidence of such other witnesses as may be produced before him, or the further evidence of any witnesses already examined, and may make an order affirming the order of dismissal, or may reverse such order and convict the defendant and may impose such fine and costs or other penalty as is provided by this Act, and the order so made shall have the same effect and shall be enforced in the same manner as is provided in the case of a conviction before a magistrate under this Act.

(9) The practice and procedure upon such appeals, and all the proceedings thereon, shall thenceforth be governed by *The Ontario Summary Convictions Act*, so far as the same is not inconsistent with this Act. R.S.O. 1897, c. 245, s. 118.

Limitation
of right of
appeal.

(10) Nothing in *The Summary Convictions Act* shall confer any right of appeal which is not expressly given by this Act, and every appeal from a conviction or order made under this Act shall be taken, heard and determined as provided by this Act and not otherwise. 10 Edw. VII. c. 94, s. 2.

Costs on
appeal from
conviction.

27-28 Vict.
c. 18.
R.S.C. c. 152.

111. On an appeal from a conviction or order, to the County Judge under this Act, or to the General Sessions of the Peace under *The Temperance Act of 1864*, or *The Canada Temperance Act*, where costs are directed to be paid by either party, no greater costs shall be taxable by or against either party as between party and party than the sum of \$10, and the actual and necessary disbursements in procuring the attendance of witnesses and the fees to which the clerk of the peace is lawfully entitled; and the fees chargeable by the Clerk of the Peace upon any such appeal to the General Sessions, shall not exceed the sum of \$2. R.S.O. 1897, c. 245, s. 119.

Appeal to
Divisional
Court.

112.—(1) An appeal by the Inspector, or other prosecutor, shall lie to a Divisional Court from the decision, judgment, or order of any Judge of a County Court upon an appeal from any conviction or order made in a case arising out of or under this Act in which a conviction or order has been quashed, or set aside, upon the ground, directly or indirectly, of the invalidity of any Act of this Legislature, or of any part thereof, or from the decision, judgment or order of the Judge of a County Court in any other case arising out of or under this Act in which the Attorney-General of Ontario certifies that he is of opinion that the matters in dispute are of sufficient importance to justify an appeal.

Notice.

(2) Such appeal shall be had upon notice thereof to be given to the opposite party of the intention to appeal within eight days, or where the certificate of the Attorney-General is necessary and is obtained, within fifteen days after such judgment, decision or order has been made.

Transmitting
papers.

(3) The clerk of the County Court shall certify the judgment, conviction, orders and all other proceedings, to the proper officer of the Supreme Court, at Toronto, for use upon the appeal.

Hearing
appeal.

(4) The Divisional Court shall thereupon hear and determine the appeal, and shall make such order for carrying into effect the judgment of the Court as the Court shall think fit. R.S.O. 1897, c. 245, s. 120.

Appeal in
certain cases
to Divisional
Court.

113.—(1) An appeal to a Divisional Court shall lie from any judgment or decision of a Judge of the Supreme Court, upon any application to quash a conviction made under this Act, or to discharge a prisoner who is held in custody under any such conviction, whether such conviction is quashed or the prisoner discharged, or the application is refused; but

no such appeal shall lie, unless the Attorney-General of Ontario certifies that he is of opinion that the point in dispute is of sufficient importance to justify the case being appealed.

(2) Upon such certificate being produced to one of the Registrars of the High Court Division, he shall certify under the seal of the Supreme Court the proceedings returned to or had before or in the said Court, to the Registrar of the Appellate Division, and a Divisional Court shall thereupon hear and determine the appeal, without any formal pleadings, and shall make such order for carrying into effect the judgment of the said Court as the circumstances of the case may require. R.S.O. 1897, c. 245, s. 121.

Certifying
proceedings
to Appellate
Division.

CIVIL REMEDIES AGAINST TAVERN KEEPERS, ETC.

114.—(1) Where, in any tavern, or in any place wherein liquor of any kind is sold, whether legally or illegally, any person has drunk to excess of liquor, therein furnished to him, and while in a state of intoxication from such drinking has come to his death by suicide, or drowning, or perishing from cold or other accident caused by such intoxication, the keeper of such tavern, or other place, and also any other person who for him or in his employ delivered to the deceased person the liquor whereby such intoxication was caused, shall be jointly and severally liable to an action as for personal wrong by the legal representatives of the deceased person; and such legal representative may bring either a joint and several action against them or a separate action against either or any of them, and by such action or actions, may recover such sum not less than \$100 nor more than \$1,000, in the aggregate, of any such actions, as may therein be assessed by the Court or jury as damages.

Liability of
innkeepers
or persons
in their
employ, etc.,
who give
liquor to
persons who
become
intoxicated.

(2) Any such action shall be brought within three months from the date of death of such deceased person. R.S.O. 1897, c. 245, s. 122.

Limitation
of action.

115. If a person in a state of intoxication assaults any person, or injures any property, the person who furnished him with the liquor which occasioned his intoxication, if such furnishing was in violation of this Act, or otherwise in violation of law, shall be jointly and severally liable to the same action by the person injured as the person intoxicated may be liable to; and the person injured, or his legal representatives, may bring either a joint and several action against the person intoxicated and the person or persons who furnished such liquor, or a separate action against either or any of them. R.S.O. 1897, c. 245, s. 123.

Persons who
furnish the
liquor liable
for certain
injuries
committed
by person
intoxicated.

116. Any payment or compensation for liquor furnished in contravention of this Act, or otherwise in violation of law, whether made in money or securities for money, or in labour or property of any kind, shall be held to have been received

Money paid
for liquor
sold con-
trary to this
Act may not
be recovered.

Securities,
etc., for pay-
ment to be
void.

without any consideration, and against justice and good conscience, and the amount or value thereof may be recovered from the receiver by the party who made the same; and every sale, transfer, conveyance, lien and security, in whole or part, made, granted, or given, for or on account of liquor so furnished in contravention of this Act, or otherwise in violation of law, shall be wholly null and void, save only as regards subsequent purchasers or assignees for value, without notice; and no action of any kind shall be maintained, either in whole or in part, for or on account of any liquor so furnished in contravention of this Act, or otherwise in violation of law. R.S.O. 1897, c. 245, s. 126.

No action for
liquor drunk
in tavern.

117. No action shall be brought by the holder of a tavern license to recover the price or value of liquor drunk in any tavern. 8 Edw. VII. c. 54, s. 12.

RESTRICTION ON SALE TO INEBRIATES.

By Order of Magistrate.

Power of
Justices to
forbid sale
of liquor to
habitual
drunkards.

118.—(1) Where it is made to appear in open Court sitting in the county in which he resides, that any person, summoned before such Court, by excessive drinking of liquor, misspends, wastes or lessens his estate, or greatly injures his health, or endangers or interrupts the peace and happiness of his family, the police magistrate or justices holding such Court, shall, by writing under the hand of such police magistrate, or under the hands of two of such justices, forbid any holder of a license to sell to such person any liquor for the space of one year, and such police magistrate, justices, or any other two justices of the county in which such person resides, may, at the same or any other time, in like manner, forbid the selling of any such liquor to such person by any person holding a license in any other locality, to which he resorts or may be likely to resort for the same. R.S.O. 1897, c. 245, s. 124 (1).

Application
to set aside
prohibition
or notice.

(2) The person in respect of whom any such notice has been given, may, at any time while the same is in force, apply to the Judge of the County Court of the county in which he resides, after having given seven days' notice of his intention so to do to the police magistrate or justices who signed the said prohibition or notice, and the crown attorney for the county in which such person resides, to set aside such prohibition or notice.

Judge may
set aside
prohibition
or notice or
dismiss
application.

(3) The Judge may, upon hearing the said person and any witnesses, either *viva voce* or upon affidavit, set aside the said prohibition or notice, or dismiss the said application, as in his discretion may seem best; but before any such prohibition or notice is set aside by the Judge evidence shall be furnished that the wife or husband of such person, if such

person is married and residing with such wife or husband, has knowledge of such application and consents thereto. R.S.O. 1897, c. 245, s. 124 (4).

On Notice by Family, etc.

119.—(1) The husband, wife, parent, child of twenty-one years or upwards, brother, sister, master, guardian or employer of any person who has the habit of drinking liquor to excess, or the parent, brother or sister, of the husband or wife of such person, or the guardian of any child or children of such person, may give notice in writing, signed by him, or may require the Inspector to give notice to any person licensed to sell, or who sells or is reputed to sell, liquor of any kind, not to deliver liquor to the person having such habit.

Husband, wife, etc., may notify sellers of liquor not to furnish to any person addicted to drinking.

(2) The notice given under subsection 1 may be in the form or to the effect following:

Form of notice.

NOTICE.

Given under section 119 of *The Liquor License Act*.

To A.B., (*Insert name of holder of license*).

I, (*Name of the person giving notice*), License Inspector, (or wife, or, as the case may be, of the person hereinafter named) of the of , in the County , hereby notify you not to deliver liquor to of the of , in the County of , being a person who has the habit of drinking liquor to excess.

Take notice that for the contravention of this prohibition, or in case you suffer or permit the said to linger or loiter in the bar room or other place upon your premises in which liquor is dispensed, you will incur the penalties provided by section 120 of *The Liquor License Act*.

C.D.,

(*Signature of the person giving notice.*)

Dated at
this

day of

A.D. 191

6 Edw. VII. c. 47, s. 33, part.

(3) The Inspector or other person giving notice under subsection 1 shall forthwith give notice to the person having such habit in the form or to the effect following:

Notice to person having the habit.

NOTICE.

Given under section 119 of *The Liquor License Act*.

To E.F. (*insert the name of the person having habit of drinking to excess*).

I (*name of person giving notice*), License Inspector (or other occupation), of the of , in the County of , hereby notify you that I have this day given notice to the license holders of the License District

of _____, in the County of _____ (or to any particular license holder or other person, naming him) not to deliver liquor to you, you having the habit of drinking liquor to excess.

Take notice that should you directly or indirectly purchase or procure, or attempt to purchase or procure liquor from or upon the premises of any such license holder (or from or upon the premises of the said _____ (naming the person notified) or from or upon the premises of any other person, or be found with liquor in your possession or under the influence of liquor, or lingering or loitering in any place where liquor is sold within twelve months after the service of this notice upon you, you will incur the penalties provided by section 120 of *The Liquor License Act*.

(Signature of person giving notice.)

8 Edw. VII. c. 54, s. 7.

Notice to be
prima facie
evidence.

(4) The notices mentioned in the two preceding subsections shall be deemed *prima facie* evidence of the allegations therein set out. 10 Edw. VII. c. 94, s. 5.

120. In cases within either of the next two preceding sections the following provisions shall apply:—

Proof of
service.

(a) Proof of the mailing of a registered letter containing any notice or prohibition given under those sections and addressed to the person notified at his proper post office address shall be conclusive evidence of the service of such notice or prohibition.

Penalty for
delivering
liquor after
notice.

(b) (i.) If any person so notified or ordered not to deliver liquor, either himself or by his clerk, servant or agent, otherwise than in terms of a special requisition for medicinal purposes, signed by a legally qualified medical practitioner, delivers within twelve months after such notice or prohibition on, in or from any building, booth or place occupied by him, and wherein and wherefrom any such liquor is sold, or suffers to be delivered, any liquor to the person having such habit, he shall incur a penalty not exceeding \$50.

Right of
action.

(ii.) Upon the conviction of any person under this clause, the person giving or requiring the notice, or in the case of an order by a police magistrate or by the justices, then anyone who would have been entitled to give, or require to be given, the notice mentioned in section 119, may, in an action as for personal wrong recover from the person notified such sum, not less than \$20 nor more than \$500, as may be assessed by the Court or jury as damages.

Idem,
married
woman.

(iii.) Any married woman may bring such action in her own name without authorization by her husband; and all damages recovered by her shall in that case go to her separate use.

(iv.) In case of the death of either party, the action and right of action given by this section shall survive to or against his legal representatives, but the defendant shall not be liable for both penalties for the same offence. Right of representatives.

(v.) Any such action must be brought within six months after such delivery of liquor. Limitation.

(c) If any keeper of a licensed tavern after service upon him of a notice or prohibition under either of the two next preceding sections suffers or permits the person named in such notice or prohibition as having the habit of drinking liquor to excess, to loiter or linger in or about the bar-room or other place in which liquor is dispensed, upon the licensed premises, such keeper shall incur a penalty of not less than \$10 nor more than \$20. 6 Edw. VII. c. 47, s. 33, *part, amended.* Penalty for permitting person named to loiter in bar-room, etc.

(d) If the person having the habit of drinking liquor to excess served with such notice or prohibition by himself or by any other person within twelve months after service of such notice purchases or procures or attempts to purchase or procure liquor, or is found with liquor in his possession or under the influence of liquor or lingering or loitering in any place where liquor is sold or dispensed he shall incur a penalty of not less than \$10 nor more than \$20, and costs, and shall upon conviction be liable to imprisonment for a period not exceeding one month. 8 Edw. VII. c. 54, s. 8. Inebriate procuring liquor after notice.

(e) After service of such notice or prohibition, if any other person with a knowledge of the notice or prohibition gives, sells or purchases for or on behalf of the person with regard to whom the notice or prohibition has been served, or for his or her use, any liquor, such other person shall upon conviction incur for every such offence a penalty of not less than \$25 nor more than \$50. 6 Edw. VII. c. 47, s. 33, *part.* Penalty for person with knowledge of notice delivering liquor to person named.

(f) In all cases of conviction under this section in which a money penalty is imposed, the defendant in default of payment of such penalty shall be liable to imprisonment for a period not exceeding one month. 7 Edw. VII. c. 46, s. 3. Imprisonment in default of payment of fine.

(g) Every Inspector shall when so required serve, within his own License District, any notice or order under the next two preceding sections. *See* 1 Geo. V. c. 64, s. 15. Duty of Inspector as to service.

121.—(1) Every person with respect to whom an order has been made under subsection 1 of section 118, or who has been served with a notice under subsection 3 of section 119, may upon any prosecution under this Act be compelled to divulge upon oath the name of any person from whom he has obtained liquor during the period for which such order or notice was in force, and the place where, and the date when the liquor was supplied to him, and if such information is Inebriate after notice to Inspector, etc., compellable to disclose name of person supplying liquor.

within his knowledge and he wilfully refuses to disclose or in the opinion of the magistrate is withholding the same, he shall be guilty of an offence and may on the order of the magistrate be forthwith imprisoned for any period not exceeding three months, unless he sooner discloses such information and pays the costs of his committal. 8 Edw. VII. c. 54, s. 9; 9 Edw. VII. c. 82, s. 28, *part*.

How disclosure may be made.

(2) For the purpose of making such disclosure such person may at any time be brought before the same or any other magistrate or may disclose the said information by affidavit. 9 Edw. VII. c. 82, s. 28, *part*.

LICENSE FUND.

Moneys payable into License Fund.

122.—(1) All sums received for fees for tavern, shop and club licenses issued under this Part, and for transfers thereof, and for bartenders' licenses in any License District, and all sums received by the Inspector for fines and penalties for offences against this Act committed therein shall form the License Fund of the License District; but such fines and penalties, and all sums received for transfers, shall belong to and be appropriated for the exclusive use of the Province.

Application and distribution of fund.

(2) So much of the License Fund as is not specially appropriated otherwise, shall be set apart, under regulations of the Lieutenant-Governor in Council, for the payment of the salary and expenses of the Inspector, and for the expenses of the office of the Board and of officers, and otherwise in giving effect to the provisions of this Act; and the residue, at such times as may be prescribed by the regulations of the Lieutenant-Governor in Council shall be paid over, one-half to the Treasurer of Ontario to and for the use of the Province, and one-half to the treasurer of the city, town, village or township municipality in which the licensed premises are situate.

Issuing cheques on fund.

(3) Subject to the regulations of the Lieutenant-Governor in Council, cheques upon the License Fund account shall be drawn by the Inspector, and countersigned by the chairman of the Board or any two of the License Commissioners; but no cheque shall be issued upon the License Fund until authority therefor has been given by the License Branch. 6 Edw. VII. c. 47, s. 12 (1-3).

Audit of license fund accounts.

(4) All accounts against the License Fund shall be audited by the proper officer of the License Branch at Toronto, and the same shall be final unless the Treasurer of Ontario otherwise directs. 6 Edw. VII. c. 47, s. 12 (4); 8 Edw. VII. c. 54, s. 13.

LAW ENFORCEMENT.

Fund to be used by Minister in enforcing law.

123.—(1) Any money appropriated by this Legislature for the purpose of preventing the contravention of the provisions of this Act or of any regulation or by-law made or passed

thereunder, shall be set apart and be known as the Liquor Law Enforcement Fund; and the money to the credit of the said fund from time to time shall be paid out under the direction of the Minister to such officers and persons as he may think proper, to be expended in the enforcement of this Act and of such regulations and by-laws or the detection of offences against this Act or any such regulation or by-law.

(2) The certificate or order of the Minister that any sum of money is required to be paid out of the said fund shall be sufficient authority for the issuing of a cheque by the Treasurer of Ontario for the amount named in such certificate or order, and the officer or other person to whom such cheque is issued shall account to the Minister for the proper disbursement of the amount received by such officer or other person. ^{Authority for payments out.}
6 Edw. VII. c. 47, s. 20.

124. No magistrate, Board of License Commissioners, Inspector, municipal council or municipal officer shall have any power or authority to remit, suspend or compromise any penalty or punishment imposed under this Act. ^{Magistrates, etc., not to remit penalties.} R.S.O. 1897, c. 245, s. 88.

125.—(1) The penalties in money imposed under this Act, or any portion of them which may be recovered, shall be paid to the convicting magistrate in the case, and shall by him, or them, in case the Inspector or any officer appointed by the Lieutenant-Governor or by the Board is the prosecutor or complainant, be paid to the Inspector, to be thereupon paid in by him to the credit of the License Fund Account. ^{Application of penalties.} R.S.O. 1897, c. 245, s. 90 (1), *part*; s. 46 (1), *part*.

(2) Where the Inspector or officer has prosecuted and obtained a conviction and has been unable to recover the amount of costs, the same shall be made good out of the License Fund. ^{Inspector indemnified against costs.}

(3) Where the Inspector has prosecuted and failed to obtain a conviction he shall be indemnified against all costs out of the License Fund if the magistrate certifies that the Inspector had reasonable and probable cause for preferring a complaint. ^{Idem.} R.S.O. 1897, c. 245, s. 46 (2), (3).

(4) In all cases in which prosecutions under this Act are brought by an Inspector or other officer appointed by the Crown under this Act, the penalty when collected shall belong to the Province. ^{Application of penalties.} 5 Edw. VII. c. 30, s. 3.

(5) Where any other person or an officer appointed under section 127 is the prosecutor or complainant, then the same shall be paid to the treasurer of the municipality wherein the offence was committed. ^{Idem.} R.S.O. 1897, c. 245, s. 90 (1), *part*; 9 Edw. VII. c. 82, s. 18.

Municipalities
to set apart
a third.

(6) The council of every municipality shall set apart not less than one-third part of the fines or penalties received by such municipality for a fund to secure the prosecutions for infractions of this Act, and of any by-law passed in pursuance thereof. R.S.O. 1897, c. 245, s. 90 (2).

OFFICERS TO ENFORCE THE LAW, THEIR DUTIES AND POWERS.

Provincial
Inspectors.

126.—(1) The Lieutenant-Governor may appoint one or more Provincial officers whose duty it shall be to enforce the provisions of this Act, and especially those for the prevention of traffic in liquor on unlicensed premises. R.S.O. 1897, c. 245, s. 127 (1).

Their duties.

(2) Any of such officers may be designated "Provincial Inspector" and it shall be the duty of a Provincial Inspector, whenever required so to do, to

Inspection.

(a) make a personal inspection of each License District;

Supervision.

(b) see that the books of each Inspector are properly kept, and that all entries are properly made, and examine into his accounts and into his mode of inspection, and ascertain that the duties of the office are faithfully and efficiently performed;

Holding
investigations.

(c) hold investigations into the conduct of Inspectors and License Commissioners when required so to do by the Minister;

Reporting to
Lieutenant-
Governor.

(d) report upon all such matters as expeditiously as may be to the Lieutenant-Governor for his information and decision. R.S.O. 1897, c. 245, s. 127 (2), *part*; 9 Edw. VII. c. 82, s. 29 (1).

Giving direc-
tions as to
additional
accommoda-
tions.

(e) visit and inspect any tavern for which a license has been issued under this Act and the accommodations provided therein and the utensils, bedding and other furniture therein and see that the laws of the Province providing for the protection, safety and health of guests and other inmates are complied with and give directions in writing to the license holder as to providing other or additional accommodations, furniture and appliances or as to any other matter he may deem necessary for the safety, comfort and convenience of guests. 9 Edw. VII. c. 82, s. 30.

Power to
take evidence
under oath.

(3) Where a Provincial Inspector inquires or causes an inquiry to be made into the conduct of any Inspector or License Commissioner or into the manner in which the law is enforced by an Inspector, or into the accounts of an Inspector, the Provincial Inspector may require evidence to be given under oath, which oath he is hereby empowered to administer; and he may also summon witnesses, and enforce

their attendance and compel the production of books and documents, in the same manner and to the same extent as the Inspector of Division Courts. R.S.O. 1897, c. 245, s. 127 (2), *part*; 9 Edw. VII. c. 82, s. 29 (2).

127. The council of any municipality in which a Local Appointment of officers by councils to enforce local option by-laws. Option By-law is in force, may by by-law appoint an officer whose duty it shall be to enforce the provisions of this Act and of any such prohibitory by-law within the municipality, and such council may by by-law provide for the payment of such officer or officers and for payment of any expenses incurred in such enforcement out of the general funds of the municipality and every officer so appointed shall have within the municipality for which he is appointed all the powers possessed by a Provincial officer appointed under section 126 and all the provisions of this Act applicable to any such Provincial officer shall apply as to any officer appointed under this section and acting within the municipality for which he is appointed in the same manner and to the same extent as if such municipal officer were expressly mentioned in such provisions. 6 Edw. VII. c. 47, s. 21.

128. The Board, with the sanction of the Lieutenant-Governor in Council, may appoint one or more officers to enforce the provisions of this Act, and especially those for the prevention of traffic in liquor by unlicensed houses, and shall fix the security to be given by such officers for the efficient discharge of the duties of their office, and every such officer shall, within the License District for which he is appointed, possess and discharge all the powers and duties of Provincial officers appointed under section 126 other than those of the Provincial Inspectors. R.S.O. 1897, c. 245, s. 128.

129. Every officer so appointed under this Act and every policeman or constable, or Inspector, shall be deemed to be within the provisions of this Act; and where any information is given to any such officer, policeman, constable, or Inspector that there is cause to suspect that some person is contravening any of the provisions of this Act, it shall be his duty to make diligent inquiry into the truth of such information, and to enter complaint of such contravention before the proper Court, without communicating the name of the person giving such information; and it shall be the duty of the Crown Attorney, within the county in which the offence is committed to attend to the prosecution of all cases committed to him by an Inspector or officer appointed under this Act by the Lieutenant-Governor. R.S.O. 1897, c. 245, s. 129.

130.—(1) Any officer, policeman, constable or Inspector may, for the purpose of preventing or detecting the contravention of any of the provisions of this Act which it is his duty to enforce, at any time enter into any and every part

Right of search.

of any inn, tavern, or other house or place of public entertainment, shop, warehouse or other place wherein refreshments or liquors are sold, or reputed to be sold whether under license or not, and may make searches in every part thereof and of the premises connected therewith, as he may think necessary for such purpose.

Penalty for
refusing to
admit officer.

(2) Every person being therein, or having charge thereof, who refuses or fails to admit such officer, policeman, or constable, or Inspector demanding to enter in pursuance of this section in the execution of his duty, or who obstructs or attempts to obstruct the entry of such officer, policeman, constable, or Inspector, or any such searches as aforesaid, shall incur the penalties and punishments prescribed by section 65, and the provisions of subsection 2 of section 103 shall apply to offences under this section. R.S.O. 1897, c. 245, s. 130; 7 Edw. VII. c. 46, s. 6.

Search
warrant.

131. Any magistrate having jurisdiction upon information by any officer, policeman, constable or Inspector that there is reasonable ground for belief that any liquor is being kept for sale or disposal contrary to the provisions of this Act in any unlicensed house or place within the jurisdiction of such magistrate, may issue a warrant under his hand, by virtue whereof the person named in such warrant or any constable to whom it is directed or delivered, at any time or times within ten days from the date thereof, may enter, and, if need be, by force, the place named in the warrant, and every part thereof, or of the premises connected therewith, and examine the same and search for liquor therein; and for this purpose the person executing the warrant may, with such assistance as he deems expedient, break open any door, lock, or fastening of such premises, or any part thereof, or of any closet, cupboard, box or other receptacle likely to contain any such liquor; and in the event of any liquor being so found on the said premises, the occupant thereof shall, until the contrary is proved, be deemed to have kept such liquor for the purpose of sale contrary to the provisions of section 49. R.S.O. 1897, c. 245, s. 131; 9 Edw. VII. c. 82, s. 31.

Unlawful
keeping of
liquor to be
evidence of
illegal deal-
ings therein.

Seizure of
liquor found
on un-
licensed
premises.

132.—(1) Where any Inspector, policeman, constable or officer in making or attempting to make any search under or in pursuance of the authority conferred by the next preceding two sections or under the warrant mentioned in the next preceding section, finds in an unlicensed house or place any liquor which in his opinion is unlawfully kept for sale or disposal contrary to this Act, he may forthwith seize and remove the same, and the vessels in which the same is kept, and upon the conviction of the occupant of such house or place, or of any other person for keeping spirituous or fermented liquor for sale in such house or place without license, the magistrate making such conviction, may in and

by such conviction, or by a separate or subsequent order, declare such liquor and vessels, or any part thereof, to be forfeited to His Majesty, to be destroyed or otherwise dealt with in such manner as the Minister may direct. R.S.O. 1897, c. 245, s. 132 (1). *Amended.*

(2) Any Inspector, policeman, constable or officer having in pursuance of the next two preceding sections or either of them entered any unlicensed premises in which he seizes or from which he removes any liquor, may demand the name and address of any person found therein, and if such person refuses to give his name and address, or if the Inspector, policeman, constable or officer has reasonable ground to suppose that the name or address given is false, may examine such person further as to the correctness of such name or address, and may if such person fails upon such demand to give his name or address or to answer satisfactorily the questions put to him by the Inspector, policeman, constable or officer, apprehend him without warrant and carry him, as soon as practicable, before a Justice of the Peace.

(3) Any person so found on the premises who in answer to the Inspector, policeman, constable, or officer, refuses to give his name and address or gives a false name or address, or gives false information with respect to such name or address, or fails to answer satisfactorily the questions put to him by the Inspector, policeman, constable or officer, shall incur a penalty of not less than \$10 nor more than \$20 besides costs, and in default of payment shall be imprisoned for a period of not less than twenty and not more than forty days. R.S.O. 1897, c. 245, s. 132.

133. If the occupant or other person as aforesaid be not convicted of keeping the liquor or any part thereof for sale, the Inspector, policeman, constable or officer so seizing the liquor, shall return the same to the place where such seizure was made; and he and any other person acting with him, or by or under his direction, and the policeman, constable or other officer so acting shall be a public officer within the meaning of *The Public Authorities Protection Act*. R.S.O. 1897, c. 245, s. 133.

134.—(1) Where an Inspector, policeman, constable or officer finds liquor in transit or in course of delivery upon the premises of any railway company, or at any wharf, railway station, express office, warehouse or other place, and believes that such liquor is to be sold or kept for sale in contravention of this Act, he may forthwith seize and remove the same. 9 Edw. VII. c. 82, s. 32, *part*.

(2) Any Inspector, policeman, constable or officer, if he believes that liquor intended for sale or to be kept for sale in contravention of this Act, is contained in any vehicle on a

Officer may demand names and addresses of frequenters of unlicensed premises.

Penalty upon persons found.

If no conviction liquor shall be returned.

Rev. Stat. c. 89.

Right to seize liquor in transit.

Or to search vehicle and lands for liquor.

public highway or elsewhere, or is concealed upon the land of any person, may enter and search such vehicle, and may enter upon and search such land and seize and remove any liquor found there and the vessels in which the same is kept; or if he finds either upon the public highway or elsewhere, any trunk, box, valise, bag or other receptacle whatever which he believes contains liquor for sale in contravention of this Act he may forthwith seize and remove the same together with the package or packages in which such liquor is contained whether in the custody of or under the control of any person or not. 9 Edw. VII. c. 82, s. 32, *part*; 1 Geo. V. c. 64, s. 18.

Proceedings
before a
justice in
such case.

(3) Where liquor has been seized under subsection 1 or subsection 2 the person seizing the same shall give information under oath before a justice of the peace, who shall thereupon issue his summons directed to the shipper, consignee or owner of the liquor if known, calling on him to appear at a time and place named in the summons and show cause why such liquor should not be destroyed or otherwise dealt with as provided by this Act.

Service of
summons.

(4) It shall be sufficient service of the summons if the same is delivered to the shipper, consignee or owner, or be left with some grown-up person at the express office, railway station or other place in which the liquor is found or to the owner of the lands on which the same is found.

When re-
turnable.

(5) The summons shall be made returnable within thirty days after the service thereof.

Evidence.

(6) At the time and place named in the summons any person who claims that the liquor is his property and that the same is not intended to be sold or kept for sale in violation of this Act may appear and give evidence before the justice, and the justice shall receive such evidence and the evidence of the person who seized the liquor and such other evidence as may be adduced in the same manner as upon a complaint or information made under this Act.

Liquor
seized, how
dealt with.

(7) If no person claims to be the owner of the liquor, or if the justice disallows such claim, and finds that it was intended that such liquor was to be sold or kept for sale in contravention of this Act he may order that such liquor and any vessels containing the same shall be forfeited to His Majesty to be destroyed or otherwise dealt with in such manner as the Minister may direct.

To be re-
stored to
owner in
certain cases.

(8) If the justice finds that the claim of any person to be the owner of the liquor is established, and that it does not appear that it was intended to sell or keep such liquor for sale in contravention of this Act he shall dismiss the complaint and order that such liquor be restored to the owner.

(9) If it appears to the justice that such liquor or any part thereof was consigned to some person in a fictitious name or was shipped as other goods, or was covered or concealed in such manner as would probably render discovery of the nature of the contents of the vessel, cask or package in which the same was contained more difficult, it shall be *prima facie* evidence that the liquor was intended to be sold or kept for sale in contravention of this Act. 9 Edw. VII. c. 82, s. 32, *part*.

Shipping in fictitious name evidence of intention to sell unlawfully.

(Note.—*Liquor seized under this Act cannot be replevied.* Rev. Stat. c. 69. *See The Replevin Act.*)

135. Any liquor forfeited under this Act to His Majesty and directed by the Minister to be sold shall be sold to a license holder only and the proceeds after the payment of any lawful costs of carriage and the expenses of the seizure and sale shall be paid to the Treasurer of Ontario for the use of the Province. *See* 9 Edw. VII. c. 82, s. 32, *part*.

Disposal of liquor forfeited.

136.—(1) Every Inspector, policeman, constable or officer in each municipality shall see that the several provisions of this Act are duly observed, and proceed by information and otherwise prosecute for the punishment of any offence against the provisions of this Act; and in the case of wilful neglect or default in so doing in any case, such officer, policeman, constable or Inspector shall incur a penalty of \$10, besides costs, for every such neglect or default.

Duty of constables and others to prosecute offenders.

Penalty for neglect.

(2) The Board of Commissioners of Police, if any, and the Chief of Police shall enforce the provisions of this section, and any officer or policeman convicted of contravening the provisions thereof may be summarily dismissed. R.S.O. 1897, c. 245, s. 134.

Commissioners of police and chief of police to enforce this section.

LOCAL OPTION.

137.—(1) The council of every city, town, village and township may pass by-laws for prohibiting the sale by retail of liquor, in any tavern, and for prohibiting the sale thereof, except by wholesale, in shops and places other than houses of public entertainment: Provided that the by-law, before the final passing thereof, has been duly approved of by the electors of the municipality in the manner provided by the sections in that behalf of *The Municipal Act*. R.S.O. 1897, c. 245, s. 141 (1).

Powers of municipal councils as to prohibiting sale of liquor.

Rev Stat. c. 192.

(2) No person shall vote upon any proposed by-law submitted to the electors under this section who is not at the date of taking the vote and has not been for three months before that date a *bona fide* resident of the municipality to which the proposed by-law relates and as to such persons the certi-

Certain non-residents to vote under this section.

Rev. Stat. c. 6. filed list mentioned in section 24 of *The Ontario Voters' List Act* shall not be final and conclusive. 1 Geo. V. c. 64, ss. 21, 23.

Proposed by law to be submitted at municipal elections. Rev. Stat. c. 192.

(3) The day fixed for taking the votes of the electors on the proposed by-law shall be the day upon which under *The Municipal Act*, or any by-law passed under that Act, a poll would be held at the annual election of members of the council of the municipality. 6 Edw. VII. c. 47, s. 24, *part*.

Council to submit by-law on petition of 25 per cent. of electors.

(4) If a petition in writing signed by at least twenty-five per cent. of the total number of persons appearing by the last revised voters' list of the municipality to be qualified to vote at municipal elections is filed with the clerk of the municipality, on or before the 1st day of November next preceding the day upon which such poll would be held, praying for the submission of such proposed by-law it shall be the duty of the Council to submit the same to a vote of the municipal electors as aforesaid. 6 Edw. VII. c. 47, s. 24, *part*; 7 Edw. VII. c. 46, s. 11.

By-law to be passed if approved by three-fifths of persons voting.

(5) If three-fifths of the electors voting upon such proposed by-law approve of the same the council shall within six weeks thereafter finally pass such by-law, and this subsection shall be construed as compulsory and the duty so imposed upon the council may be enforced at the instance of any municipal elector by *mandamus* or otherwise.

When by-law not so approved no new submission for three years.

(6) If such proposed by-law does not receive the approval of at least three-fifths of the electors voting thereon the council shall not pass the same; and no proposed by-law for the same purpose shall be submitted to the municipal electors before the date of polling for the third annual election of members of the council to be held after that at which the voting on the first mentioned by-law took place. 6 Edw. VII. c. 47, s. 24, *part*.

Repealing local option by-law.

(7) No by-law passed under the provisions of subsection 1 shall be repealed by the council passing the same until after a proposed by-law for that purpose has been submitted to the electors and approved by three-fifths of the electors voting thereon, in the same manner as in the case of the original by-law, on the polling day at the third or some subsequent annual municipal election held after the passing of such original by-law; and if such proposed repealing by-law is not so approved, no other repealing by-law shall be submitted to the electors until the polling at the third annual municipal election thereafter. 6 Edw. VII. c. 47, s. 24, *part*.

Application of suba. 4.

(8) The provisions of subsection 4 shall apply to a repealing by-law. 3-4 Geo. V. c. 54, s. 7.

Local Option by laws passed before 27th April, 1906

(9) Any by-law passed under subsection 1 before the 27th day of April, 1906, may be so repealed with the approval of

a majority of the electors voting upon such repeal. 6 Edw. VII. c. 47, s. 24, *part*.

(10) Every by-law passed under this section shall come into force and take effect as from the 1st day of May next after the passing thereof. 6 Edw. VII. c. 47, s. 24, *part*. When by-law to take effect.

(11) The form of the ballot paper to be used for voting on a proposed by-law under this section or any subsection thereof shall be as follows: Form of local option ballot.

<p>19 Voting on By-law to (insert here object of the By-law) submitted to the council of the of</p>	<p>For Local Option.</p> <hr style="border: 0; border-top: 1px solid black; margin: 20px 0;"/> <p>Against Local Option.</p>
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8 Edw. VII. c. 54, s. 10.

(12) Notwithstanding anything in this section or in *The Municipal Act*, the oath to be taken by any person offering to vote upon any such by-law shall be as follows:— Form of oath in voting on local option by-law. Rev. Stat. c. 192.

You swear (or solemnly affirm) that you are the person named (or intended to be named) by the name of in the list (or supplementary list) of voters now shown to you (showing the list to the voter);

And in the case of an unmarried woman or widow claiming to vote,

That you are unmarried (or a widow, as the case may be);

And in the case of a freeholder,

That at the date of this election you are in your own right (or your wife is) a freeholder within this municipality.

And in the case of a tenant,

That you were (or your wife was) actually, truly and in good faith possessed to your (or her) own use and benefit as tenant of the real estate in respect of which your name is entered on the said list;

That you are (or your wife is) a tenant within this municipality;

[And in the case of a person claiming to vote in respect of income,

That on the day of 19 (the day certified by the clerk as the date of the final revision and correction of the assessment roll upon which the voters' list used at the election is based, or at the option of the voter the day certified by the clerk as the last day for making complaint to the county judge with respect to such voters' list) you were and thenceforward have been continuously and still are a resident of this municipality.

That at the said date and for twelve months previously you were in receipt of an income from your trade (office, calling or profession, as the case may be) of a sum of not less than \$400;]

[And in the case of a person claiming to vote as a farmer's son,

That on the _____ day of _____ 19____ (the day certified by the clerk as the date of the final revision and correction of the assessment roll upon which the voters' list used at the election is based, or at the option of the voter the day certified by the clerk as the last day for making complaint to the county judge with respect to such voters' list). A.B. (naming him or her) was actually, truly and in good faith possessed to his (or her) own use and benefit as owner (or as tenant under a lease, the term of which was not less than five years), as you verily believe, of the lands in respect of which your name was entered on the said list.

That you are a son (or stepson) of the said A.B.

That you resided on the said property for twelve months next before the said day, not having been absent during that period, except temporarily and for not more than six months in all.]

That you are not a citizen or subject of any foreign country.

That you are a natural born (or naturalized) subject of His Majesty and of the full age of twenty-one years.

That you have not voted before upon this by-law, either at this or at any other polling place.

That you are a *bona fide* resident of this municipality and have continuously resided therein for three months prior to this date.

[And in the case of a municipality divided into polling sub-divisions.

That you reside in this polling sub-division (or that you are not entitled to vote in the polling sub-division in which you reside).]

That you have not directly or indirectly received any reward or gift, nor do you expect to receive any, for the vote which you tender upon this by-law.

That you have not received anything, nor has anything been promised to you directly or indirectly, either to induce you to vote upon this by-law, or for loss of time, travelling expenses, hire of team, or any other service connected with the submission of the by-law.

That you have not directly or indirectly paid or promised anything to any person, either to induce him to vote or to refrain from voting upon this by-law.

So help you God.

(In the case of a new municipality in which there has not been any assessment roll, then instead of referring to the list of voters the person offering to vote as a freeholder or tenant may be required to state in the oath the property in respect of which he claims to vote.) 1 Geo. V. c. 64, s. 22.

Sales in
municipalities
in which local
by-laws in
force.

138.—(1) No tavern or shop license shall be issued or take effect within any municipality in which there is in force any Local Option By-law; but the sale or keeping for sale of liquor without license in any such municipality shall nevertheless be a contravention of sections 48 and 49, and all the provi-

sions of this Act respecting the sale or keeping for sale of liquor in contravention of those sections, and the penalties and procedure in reference thereto, shall be of full force and effect in such municipality, notwithstanding such prohibitory by-law. R.S.O. 1897, c. 245, s. 143.

(2) Whenever an appropriation is made by this Legislature for enforcing the provisions of this Act in municipalities in which Local Option By-laws are in force, the Minister, in any case in which such a by-law is in force in any municipality in any License District in Ontario, may by his order direct the payment out of such appropriation of any sum which he may think necessary to enforce this Act in such License District or any part thereof, including the payment of the salary and expenses or any part thereof of the Inspector for such district. 1 Geo. V. c. 64, s. 17.

Payment of expenses of enforcing local option by-law.

See also section 16 (4).

139.—(1) Where a Local Option By-law is declared by the Clerk of the municipality or other Returning Officer to have received the assent of three-fifths of the electors voting thereon, and is after such declaration quashed or set aside, or held to be invalid or illegal, or where such a by-law after having been declared not to have received the assent of three-fifths of the electors, is held upon a scrutiny to have received such assent, and is subsequently quashed or held to be invalid or illegal, no tavern or shop license, as the case may be, shall be issued in the municipality in which the by-law was submitted after the date of such submission and until the first day of May in the year in which a repealing by-law might have been submitted to the electors if the first-mentioned by-law had been declared valid, without the written consent of the Minister first had and obtained.

Where local option by-law set aside, etc., on technical grounds.

(2) This section shall be held to apply to all by-laws submitted to the electors since the 31st day of December, 1906. 8 Edw. VII. c. 54, s. 11.

Application of section.

140.—(1) In any municipality in which a Local Option By-law is in force or in which no tavern license is issued, and in any locality without municipal organization, one or more permits under this section may be granted to a suitable person or persons to establish and carry on an hotel for the accommodation of the travelling public and other guests, and such permit or permits may be granted by the Board of the License District in which the premises in respect of which the permit is desired are situate, and, except as herein varied, all the provisions of this Act, so far as the same are applicable, shall apply to holders of permits under this section, and the premises in respect of which any such permit is granted shall be subject to inspection in the same way and to the same extent as are premises licensed under any other provisions of this Act, and the permit may be revoked for any cause which may by the Board be deemed sufficient.

Permits may be issued in L. O. Municipalities.

"Inspected" hotels.

(2) An hotel for which a permit is granted shall be known as an inspected hotel.

Annual fee.

(3) The annual fee to be paid for any such permit shall be \$5, and the same may be granted at any time during the year on payment of the fee, and may be transferred without charge by the Board on application by the holder thereof.

Form of permit.

(4) The permit shall be in such form as may be approved by the Lieutenant-Governor in Council, and no greater number of permits shall be issued in any municipality than are reasonably sufficient in the opinion of the Board to meet the public needs of the locality.

Accommodation necessary.

(5) The accommodation to be provided by the holder of any such permit shall correspond as nearly as may be to the accommodation required to be provided under sections 31 and 32; but in cases in which in the opinion of the Board stabling is not necessary the same may be dispensed with by resolution of the Board. 9 Edw. VII. c. 82, s. 35, *part*.

Inspection of hotels in local option municipalities.

(6) Nothing in this section shall require the keeper of an hotel of the class mentioned in subsection 1 to obtain a permit, but any Provincial License Inspector may, nevertheless at any time, inspect any hotel situate in any municipality or locality to which subsection 1 applies, and if the Inspector finds that the accommodation provided in any such hotel falls below the standard usually provided in licensed hotels in other similar municipalities or localities, he shall report the facts to the Minister for his information. 9 Edw. VII. c. 82, s. 35, *part*; 2 Geo. V. c. 55, s. 10.

Persons found intoxicated in Local Option municipalities.

141. Where in a municipality in which a Local Option By-law is in force, a person is found upon a street or in any public place in an intoxicated condition owing to the drinking of liquor, he shall be guilty of an offence against this Act, and upon any prosecution for such offence he shall be compellable to state the name of the person from whom and the place in which he obtained such liquor, and in case of his refusal to do so he shall be imprisoned for a period not exceeding three months or until he discloses such information. 2 Geo. V. c. 55, s. 13.

MUNICIPALITIES UNDER THE TEMPERANCE ACTS.

27-28 V. c. 18 and R.S.C. c. 152, not affected by this Act.

142. Nothing in the foregoing provisions of this Act shall be construed to affect or impair any of the provisions of *The Temperance Act 1864*, of the late Province of Canada, and the second part of *The Canada Temperance Act*, and no tavern or shop license shall be issued or take effect within any county, or other municipality in Ontario within which any by-law for prohibiting the sale of liquor under *The Temperance Act of 1864*, or the second part of *The Canada Temperance Act* is in force. R.S.O. 1897, c. 245, s. 144.

143. The Lieutenant-Governor in Council may, notwithstanding that any such by-law affects the whole or any part of any county, or that the second part of *The Canada Temperance Act* is in force in the whole or part of any county, nominate a Board of License Commissioners of the number, and for the period mentioned in section 5, and also an Inspector; and such Board and Inspector shall have, discharge and exercise all such powers and duties respectively for preventing the sale, traffic or disposal of liquor contrary to the said Acts or this Act as they respectively have or should perform under this Act. R.S.O. 1897, c. 245, s. 145.

Commissioners and inspectors may be appointed where said Acts in force.

144. The Board and the Inspector appointed under this Act shall exercise and discharge all their respective powers and duties for the enforcement of the provisions of *The Temperance Act of 1864*, and the second part of *The Canada Temperance Act* as well as of this Act, so far as the same apply, within the limits of any county, city, or other municipality within which any Local Option By-law or any by-law under *The Temperance Act of 1864*, or *The Canada Temperance Act* is in force. R.S.O. 1897, c. 245, s. 146.

Duties in such case.

27-28 V. c. 18;
R.S.C. c. 152.

145. All the provisions of sections 126 and 128 shall be applicable to municipalities in which the second part of *The Canada Temperance Act* is in force. R.S.O. 1897, c. 245, s. 149.

Application of ss. 127 and 128.

146. The council of any county or city in which the second part of *The Canada Temperance Act* is in force, may, from time to time, set apart any sum or sums of money for the purpose of paying any officer or officers, person or persons, for enforcing, or assisting to enforce *The Canada Temperance Act* within their respective jurisdictions, and for the payment of any costs or expenses incurred in and about enforcing, or attempting to enforce the same; and such councils are hereby authorized and empowered to appoint one or more officers or persons to enforce, or assist in enforcing, the provisions of that Act, and to pass by-laws for the government and control of such officers or persons, and defining their duties and mode and amount of payment. R.S.O. 1897, c. 245, s. 150 (1).

Municipal councils may aid in enforcing the Canada Temperance Act.

R.S.C. c. 152.

147. In license districts where the second part of *The Canada Temperance Act* is in force, the council of any city, town, village or township may, at any time after a petition to the Governor in Council, as required by that Act, praying for the revocation of the Order in Council passed for bringing the second part of that Act into force, has been deposited in the manner provided by that Act, pass by-laws under subsection 5 of section 13, or sections 28 or 42; and all by-laws so passed shall take effect upon from and after the repeal of the second part of *The Canada Temperance Act* in any such municipality, and shall remain in force as provided by

Powers to pass by-laws under ss. 13, 28, 42 pending repeal of C. T. Act.

R.S.C. c. 152.

those sections; and no by-law already passed in any municipality under those sections or any of them or under any provision for which any of them has been substituted subsequently to the deposit of the said petition during the year 1889, shall be invalid by reason only of the same having been passed while the second part of *The Canada Temperance Act* was in force or after the dates mentioned in any of the said sections respectively. R.S.O. 1897, c. 245, s. 151 (1).

Expenses of enforcing this Act in municipalities under the Temperance Acts.

R.S.C. c. 152.

148.—(1) The expenses of carrying into effect such of the provisions of this Act, or of the Acts or by-laws hereinafter mentioned, as may be in force in municipalities where a by-law prohibiting the sale of liquor under *The Temperance Act of 1864*, or where the second part of *The Canada Temperance Act* is in force, except as is hereinafter provided, shall be borne and paid by the county or city within which any by-law for prohibiting the sale of liquor under *The Temperance Act of 1864*, or within which the second part of *The Canada Temperance Act*, is in force; and where the by-law is that of a minor municipality, such expenses shall be paid by the minor municipality.

How and when payable.

(2) The expenses payable under this section by a county or city, or by a minor municipality, shall be paid by it into the bank in which the License Fund is kept to the credit of the License Fund Account for the District, and shall become due and payable within one month after an estimate of the amount of the expenses for the current license year has been made by the Board for the License District, and approved by the Minister (which approval shall be final and conclusive) and after a copy or duplicate of such estimate and approval, together with a notice in writing by the Board, requesting payment of the amount payable by the municipality has been served upon the clerk of the county or city, or minor municipality, on such days and times as by the said request or notice are named for that purpose; and in case any estimate proves insufficient for the payment of the expenses of the license year any deficiency may be provided for in the estimate for the succeeding year; and in case any sums remain unexpended in any year, the same may be applied on account of the expenses of the succeeding year.

Payment of proportion, how enforced.

(3) Payment may be enforced against any county, city or minor municipality, by the Board by action or proceedings in the name and by the title of "The Board of License Commissioners for the License District of _____," and it shall not be necessary to mention or include the names of the License Commissioners in the proceedings; and the action or proceedings may be carried on in the name of such Board as fully and effectually as though such Board were incorporated under such name or title; and in the event of the death or resignation of any of the License Commissioners, or of the expiry of their commission and of the re-ap-

pointment of the same, or of the appointment of other License Commissioners, the action or proceedings shall not cease, abate or determine, but shall proceed as though no change had been made in the Board or License Commissioners, and, in the event of the Board being condemned in costs, the same may be payable out of the License Fund.

(4) In cities which are separate License Districts in which the second part of *The Canada Temperance Act* is in force the expenses of enforcing or carrying into effect the provisions of that Act shall be borne by the city, as in the case of counties in which the second part of that Act is in force and such expenses of the city shall be estimated and ascertained, and become due and payable, and payment may be enforced against the city in the same manner or under like circumstances as are provided in the case of county municipalities and all of the provisions of this Act, having reference to such expenses and the mode of ascertaining, fixing and collecting them, which are applicable to counties in which the second part of *The Canada Temperance Act* is in force shall also apply to cities in which the same is in force.

Expenses of enforcing C. T. Act in cities.

(5) In any License District in which the second part of *The Canada Temperance Act* is in force and the License District, in addition to other portions of the county, embraces a city or town withdrawn from the county for municipal purposes wherein that Act is not in force, the License Fund of such city or town withdrawn from the county for municipal purposes shall be kept as a separate License Fund for such city or town; and such city or town shall pay a just share of the expenses of such License District to be determined by the Board and, after approval by the Minister, paid out of the License Fund for such city or town; and in determining such share of expenses the Board shall take into account with other circumstances, as far as may be, the proportion of the expenses incurred in such city or town.

Payment of expenses of license district where C. T. Act is in force in part only of district.

(6) Where a city in which the second part of *The Canada Temperance Act* is in force and which is not a separate License District but forms part of a License District in which the second part of *The Canada Temperance Act* is also in force as to the whole or part of such License District, and where a town is separated from the county and forms part of a License District in which the second part of *The Canada Temperance Act* is in force, as to the whole or part thereof, the council of such city and of such town, respectively, shall pay a just share of the expenses of the License District of which it forms a part, to be separately estimated and determined by the Board, and after approval by the Minister, paid into the License Fund of the License District of which such city or town forms part; and in

Share of expenses of license district to be paid by city or town in district in which R. S. C. c. 152 is in force.

determining such share of expenses the Board shall take into account with other circumstances as far as may be the proportion of the expenses of the district incurred in such city or town.

Apportionment
in case of
license district
partly in
territory in
which C.T.A.
is in force.

(7) Where a License District is formed of part of a county in which the second part of *The Canada Temperance Act* is in force, or of parts of two counties in which the second part of that Act is in force, or of part of a county in which it is in force, and of a county or part of a county in which it is not in force, the Board shall estimate the amount of the expenses for the license year required for any License District or portion of a License District in which the second part of that Act is in force, and after approval thereof by the Minister and the service of a copy or a duplicate thereof, and of a notice in writing requesting payment of the same, upon the clerk of the municipality, the amount so estimated and approved shall become due and payable into the License Fund by the county at the time or times and in the same manner as is provided for payment of the amount of the estimates in other cases, and the same may be recovered by the Board for the License District as in other cases. R.S.O. 1897, c. 245, s. 152 (1-7).

Inspector to
furnish
statement.

(8) When the council has been called upon to pay a proportion of the expenses of the enforcement of the second part of *The Canada Temperance Act*, the Inspector shall, at the close of each year, send to the council a statement in detail of the receipts and expenses of the year. R.S.O. 1897, c. 245, s. 150 (2).

"Minor mun-
cipality."
meaning of.

(9) The words "minor municipality" in this section shall be held to mean any municipality, other than a county, union of counties or a city. R.S.O. 1897, c. 245, s. 152 (9).

Application of
fees for
licenses where
C. T. Act
is in force.

149. All sums received as fees for licenses issued in municipalities in which the second part of *The Canada Temperance Act* is in force, and any sum paid by a municipality for or on account of such expenses, or by the Province, shall form the License Fund of the city, county or License District respectively in which the second part of *The Canada Temperance Act* is in force, and shall be applied under regulations of the Lieutenant-Governor in Council, towards payment of the salary and expenses of the Inspector, and for the expenses of the office of the Board and of officers, and otherwise in carrying the provisions of the second part of *The Canada Temperance Act* into effect, and the residue, if any, on the 30th day of June in each year, and at such other times as may be prescribed by the regulations of the Lieutenant-Governor in Council, may be applied on account of the expenses of the succeeding year. R.S.O. 1897, c. 245, s. 154.

R.S.C. c. 152.

150. The Lieutenant-Governor in Council shall have the same power and authority to create License Districts when and where the second part of *The Canada Temperance Act* is in force, as under this Act. R.S.O. 1897, c. 245, s. 156. License districts in places where the R.S.O. c. 152 is in force.

PROHIBITING LIQUOR NEAR PUBLIC WORKS AND OTHER PLACES.

151.—(1) The Lieutenant-Governor in Council whenever he deems it expedient, owing to the construction of any public work in Ontario, or for any other reason, may declare by proclamation that upon and after a day named therein no liquor shall be sold or kept for sale within the limits of any place or locality designated in the proclamation by any person licensed to sell liquor by retail, and the license of any such person shall thereupon become suspended and be of no effect during the time any such proclamation is in force; but the proportionate part of any license duty paid by such person having regard to the period during which such license is suspended, shall be returned to such license holder out of any moneys available for that purpose. Prohibiting sale, etc., of liquor near public works.

(a) In this section "public work" shall mean and include any railway, canal, road, bridge or other work of any kind, and any lumbering or mining operation carried on by the Government of Canada or of Ontario or by any municipal corporation or by any incorporated company or by private enterprise. "Public work," meaning of.

(2) Such proclamation may also declare that while it remains in force no unlicensed person shall have in his possession within the limits of any such place or district, except under the order of a legally qualified medical practitioner, any liquor whatever; but this provision shall not be deemed to apply to a chemist or druggist carrying on business as such within the said limits nor to any person whose license has been temporarily suspended. Prohibiting an licensed persons from having liquor in possession.

(3) The Lieutenant-Governor in Council may, in like manner, from time to time, declare such proclamation to be no longer in force in any such place or locality or any part thereof. Proclamation withdrawing prohibition.

(4) Every proclamation issued under this section shall be published in the next following issue of the *Ontario Gazette*. Publication.

(5) No such proclamation shall have effect within the limits of any city. Not to apply to cities.

(6) While such proclamation remains in force every person who sells or keeps for sale or has in his possession any liquor in contravention of the terms thereof shall be guilty of an offence and shall incur a penalty of not less than \$100 nor more than \$500, or may upon conviction for such offence be imprisoned for any period not less than one month and not exceeding four months. 2 Geo. V. c. 55, s. 12. Penalty.

PART II.

PROVINCIAL LICENSES.

*Brewers' and Distillers' Licenses.*Interpreta-
tion.**152. In this Part**

"Brewer."

- (a) "Brewer" shall, in addition to private persons and partnerships, include any incorporated company carrying on the business of a brewer within Ontario;

"Distiller."

- (b) "Distiller" shall, in addition to private persons and partnerships, include any incorporated company carrying on the business of a distiller within Ontario;

"Wholesale
license."
"License by
wholesale."

- (c) "Wholesale License" shall mean a license for selling, by wholesale only, liquor in warehouses, stores, shops, or places other than taverns, in quantities of not less than five gallons in each cask or vessel at any one time; or where such selling by wholesale is in respect of bottled ale, porter or beer, wine or other fermented liquor, in quantities of not less than one dozen bottles of at least three half-pints each, or two dozen bottles of at least three-fourths of one pint each, at any one time, or where such selling is in respect of distilled liquor, in quantities of not less than five gallons when sold in bulk or one dozen reputed quart bottles or a quantity equivalent thereto when in flasks or bottles of a smaller size, at any one time. R.S.O. 1897, c. 245, s. 2, par. 4; 2 Geo. V. c. 55, s. 1.

Brewers and
distillers not to
sell without
Provincial
License.

153.—(1) No brewer or distiller shall sell any spirituous or fermented liquors unless he is the holder of a Provincial License for the sale of liquor manufactured by him, nor unless the license is in force at the time of such sale. 62 V. (2), c. 31, s. 2.

License, how
styled.

(2) The license to be taken out by a brewer shall be styled a "Brewer's Provincial License" and that to be taken out by a distiller a "Distiller's Provincial License." 62 V. (2), c. 31, s. 3.

Carrying on
business at
more than one
place.

154. Where a brewer or distiller carries on the business of a brewer or distiller on premises at two separate places, a separate license shall be taken out for each place. 62 V. (2), c. 31, s. 25.

What sales
may be made
under Provin-
cial License by
brewer.

155.—(1) A Brewer's Provincial License shall be an authority for the holder thereof to sell to persons who are holders of licenses under Part 1 ale and beer on the premises

in or on which they are manufactured, in the quantities hereinafter mentioned, and shall authorize him to sell the same in such quantities to such persons in any part of Ontario for future delivery. 62 V. (2), c. 31, s. 4 (1) *part*.

(2) Such license shall also be an authority for the holder ^{Idem.} thereof to sell ale and beer in the quantities specified in subsection 4, on such premises to others than licensees, but no such last mentioned sale shall be made either directly or indirectly within any municipality in which a Local Option by-law is in force. 62 V. (2), c. 31, s. 4 (1) *part*; 9 Edw. VII. c. 82, s. 47; 1 Geo. V. c. 64, s. 16.

(3) In a municipality in which no tavern or shop license is in force, no liquor shall be stored or kept by any brewer or other person whomsoever, for future delivery to any customer or other person notwithstanding that such liquor or some part thereof may have been previously ordered or appropriated to a customer or other person and any brewer or other person contravening this provision shall be deemed conclusively to have kept liquor for sale without the license therefor by law required. ^{Storing for future delivery where no license in force.}

(a) Liquor not actually delivered into the possession of the person for whom it purports to be intended in any such municipality shall be deemed to be kept for sale by the person in whose possession such liquor is found. ^{When to be deemed to be kept for sale.}

(b) Any person who suffers or permits any liquor, of which he is not the *bona fide* owner, to be stored or kept on his premises in any such municipality shall be guilty of an offence against Part 1. 2 Geo. V. c. 55, s. 4. ^{Storing liquor.}

(4) Ale, and beer other than lager beer, shall not be sold, bartered or trafficked in by any brewer in quantities less than ten gallons, wine measure, in each vessel at any one time, and lager beer shall not be sold, bartered or trafficked in by any brewer in quantities less than four gallons, wine measure, in each vessel at any one time; and if such selling is in respect of bottled ale, beer or other fermented liquors no sale shall be made in quantities less than one dozen bottles of at least three half pints each or two dozen bottles of at least three-fourths of one pint each at any one time. 62 V. (2), c. 31, s. 4. ^{Quantities ale and beer.}

156. A Distiller's Provincial License shall be an authority for the holder thereof to sell in quantities authorized by whole-sale license, spirits manufactured by him, if the sale is made on the premises in which such spirits are manufactured, and also to sell in any municipality in Ontario for future delivery in such quantities. 62 V. (2), c. 31, s. 5. ^{What may be sold by distiller.}

Warehouse
license.

157.—(1) A brewer or distiller holding a Brewer's or a Distiller's Provincial License, respectively, may upon payment of the additional fee prescribed by this Part take out one or more licenses to be known as a Brewer's Warehouse License or Licenses or a Distiller's Warehouse License or Licenses, respectively. 5 Edw. VII. c. 31, s. 1.

Warehouse
licenses, what
authorized by.

(2) A Brewer's or Distiller's Warehouse License shall be authority for the holder thereof to maintain and keep in any city or town for which such license may be issued a warehouse for the storage of unbroken packages of beers or spirits manufactured by him, and to sell and supply therefrom to customers in such city or town such beers or spirits in the quantities authorized by this Part to be sold under Provincial Licenses; but no such beers or spirits shall be sold to any unlicensed person in any municipality having a population of less than 4,000, nor shall any such beers or spirits be sold or delivered by or on behalf of any holder of a Brewer's Warehouse License within any municipality in which a Local Option By-law is in force. 5 Edw. VII. c. 31, s. 2, *part*; 9 Edw. VII. c. 82, s. 43.

Brewery or
distillery not to
communicate
with retail
store.

(3) No shop or premises wherein any liquor is sold by retail or wherein is kept any broken package of any liquor shall communicate by any entrance with any brewery or distillery. 62 V. (2), c. 31, s. 6.

Minister's
discretion to
refuse.

158. The Minister may in any case refuse to issue a Brewer's or Distiller's Warehouse License if he deems such refusal expedient in the public interest. 1 Geo. V. c. 64, s. 13, *part*.

Fees for
brewer's
Provincial
License.

159.—(1) The annual fee to be paid for a Brewer's Provincial License shall be:—

Where the amount invested in the business of the brewer obtaining the license is \$10,000 or less.....	\$250
Where the amount so invested exceeds \$10,000, but is not more than \$20,000	400
Where the amount so invested exceeds \$20,000, but is not more than \$50,000	500
Where the amount so invested exceeds \$50,000, but is not more than \$100,000	750
Where the amount so invested exceeds \$100,000, but is not more than \$150,000	1,000
Where the amount so invested exceeds \$150,000, but is not more than \$200,000	1,500
Where the amount so invested exceeds \$200,000...	2,000

62 V. (2), c. 31, s. 7.

Payment of
license fees.

(2) (a) If the applicant for a Brewer's Provincial License so desires the annual license fee or duty payable to the Province may be paid on or before the 1st day of October in each

year; and in that event the Minister may issue to the applicant a permit which shall remain in force for a period of five months, that is to say from the 1st day of May in the year in which it is issued until the 1st day of October in the same year and no longer, and while in force shall confer on the holder the same privileges and authority as if he had obtained a license.

Permit for first half year on payment of instalment.

(b) The Lieutenant-Governor in Council may direct the issue of permits in such form as he may provide to be used in place of licenses and such permits shall be signed by the Minister and dated as of the 1st day of May in each year and shall be absolutely void and of no effect after the 1st day of October in the year in which the same is issued.

Form and duration of permits.

(c) All the provisions of Part 1 with regard to licenses and offences and penalties shall apply to persons holding permits in the same manner and to the same extent as if such persons were licensees.

Applications of provisions of Part I.

(d) It shall not be necessary in any proceedings under Part 1 to specify or particularize the permit, but the same shall be included for all such purposes in the word "license."

"License" to include permit.

(3) The annual fee to be paid for a Brewer's Warehouse License shall be:—

Fees for brewer's warehouse licenses.

In cities or towns having a population under 20,000.	\$100
In cities or towns having a population of 20,000 and under 100,000	200
In cities or towns having a population of over 100,000	300

5 Edw. VII. c. 31, s. 2, part.

160.—(1) The annual fee to be paid for a Distiller's Provincial License shall be as follows:—

Fees for distiller's Provincial License.

Where the amount invested in the business of the distiller obtaining the license is \$50,000 or less.....	\$1,000
Where the amount so invested exceeds \$50,000, but is not more than \$125,000	3,000
Where the amount so invested exceeds \$125,000, but is not more than \$200,000	4,000
Where the amount so invested exceeds \$200,000, but is not more than \$500,000	5,000
Where the amount so invested exceeds \$500,000....	6,500

(2) The Lieutenant-Governor in Council, where it is shown that the sales made by any distiller were during the preceding year less than 10,000 gallons of proof spirits and that the sale will not exceed that quantity during the calendar year in which the license is to be issued, may issue a Distiller's Provincial License at a sum not less than one-third the minimum charge for such a license. 62 V. (2), c. 31, s. 8.

Reduction in fees in certain cases.

Fees for
distiller's
warehouse
licenses.

(3) The amount of the annual fee to be paid for a Distiller's Warehouse License shall be double the amount herein fixed to be paid for a Brewer's Warehouse License. 5 Edw. VII. c. 31, s. 3.

Apportionment
of license fee
for broken
period.

161. Where a new brewery or distillery business is commenced subsequently to the 1st day of May of any year, the Minister may issue a license on payment of a just proportion of the fee, having regard to the time for which such license is to run, and where a brewer or distiller has given up business during the currency of a license year so that neither manufacture nor sales will take place for the residue of such year, the Treasurer may in his discretion, on surrender of the license, refund a just proportion of the license fee paid. 62 V. (2), c. 31, s. 9.

Amount
invested in
business how
determined.

162.—(1) In ascertaining the amount invested in the business of a brewer or distiller for the purpose of determining the sum to be paid for a Brewer's or Distiller's Provincial License, there shall be included the value of the land, buildings and plant used or occupied by a brewer or distiller for the purpose of his business as such brewer or distiller, the value of the goods, chattels, personal property and other assets belonging to the business or used in connection therewith and the value of the stock in trade on hand and of all land and buildings, plant, goods and chattels and personal property connected with or belonging to the business of such brewery or distillery; and the aggregate of such values shall be deemed to be the amount invested in the business of the brewer or distiller for the purpose of determining the amount to be paid for such a license.

Computation
of debts.

(2) In making such valuation the debts owing to the brewer or distiller in respect of his business shall not be taken into account nor shall his liabilities or debts owing by him be deducted, nor shall it be necessary to specify in the affidavit hereinafter mentioned the value of the building and plant used in malting, or in fattening of cattle or swine, or of any other like business carried on in connection with the brewery or distillery, either in proximity thereto or elsewhere, or of the stock of malt on hand. 62 V. (2), c. 31, s. 10 (1), *part*; 63 V. c. 42, s. 1.

Date at which
value
ascertained.

(3) Such value of the investment shall be ascertained as it was on the 31st day of December preceeding the issue of the license, unless, upon the report of the Minister, the Lieutenant-Governor in Council by general regulation or in any particular case designates some other date. 62 V. (2), c. 31, s. 10 (2).

License, form
and conditions.

163.—(1) Brewers' Provincial Licenses, Distillers' Provincial Licenses and Brewers' and Distillers' Warehouse Licenses shall be issued in such form as the Lieutenant-Gover-

nor in Council directs. 62 V. (2), c. 31, s. 11 (1); 5 Edw. VII. c. 31, s. 4.

(2) The license shall be signed and issued by the Minister, ^{Date.} and shall, except where it is issued for a part of the year, be dated as of the 1st day of May in each year, and shall continue in force until and including the 30th day of April in ^{Duration.} the next ensuing year and no longer.

(3) A brewer or a distiller desiring to obtain a license shall ^{Application for license.} apply therefor to the Minister on or before the 1st day of April next preceding the license year for which the same is required, except in the case of a new business which begins subsequently to that date. 62 V. (2), c. 31, s. 11 (2-3).

164.—(1) Every brewer and distiller shall, on or before ^{Statement under oath by brewer or distiller.} the 15th day of February of each year, file with the Minister an affidavit, Form 15, 16, or 17 as may be applicable, or in such other form as may be directed or provided by the Minister.

(2) If the Minister in order to enable him to determine ^{Treasurer may require further information.} whether he should accept the affidavit as correct, desires to obtain further information, any brewer or distiller who is, by registered letter, requested by the Minister to furnish further information as to the amount invested in his business or as to the value of any lands, buildings, plant, goods or chattels, or property mentioned in section 162 shall within twenty days of his being so requested furnish such further information, verified by affidavit.

(3) Where the business is carried on by an incorporated ^{Statement when company carries on business.} company the affidavit and information required by this section shall be made and furnished by the president and manager, or by the manager and secretary of the company, or if there are no such officers, then by such persons as the Minister may designate.

(4) Where a brewer or distiller has paid or is willing to ^{When affidavit dispensed with.} pay for a license the maximum fee imposed by this Part the Minister may dispense with the filing of such affidavit. 62 V. (2), c. 31, s. 12.

(5) If a brewer or distiller fails to file the statement ^{Penalty for not filing statement in time.} required by this section within the time therein specified and thereafter applies for a license he shall, besides the fee prescribed, pay for such license in addition the sum of \$10 for each day's delay in filing such statement, unless the Lieutenant-Governor in Council, upon the report of the Minister, sees fit, upon proof of extenuating or mitigating circumstances, to relieve the applicant in whole or in part from such additional payment. 62 V. (2), c. 31, s. 18.

165.—(1) If the required information is not furnished or ^{Commission of inquiry as to statements.} the Minister is not satisfied therewith, the Lieutenant-Governor in Council may direct inquiry to be made by a commis-

Rev. Stat.
c. 18.

sioner or commissioners appointed under *The Public Inquiries Act*, and the determination of such commissioner or commissioners, after giving the brewer or distiller an opportunity to be heard, shall be final for the purposes of this Part, as to the amount invested in the business. 62 V. (2), c. 31, s. 13.

Costs of
commission
of inquiry.

(2) If the inquiry is occasioned by the failure of the brewer or distiller to furnish the information required by the Minister, the brewer or distiller shall pay the costs of the inquiry, but if the statement is found to be correct and the commissioner or commissioners find that the required information was duly furnished, the cost of the inquiry shall be borne by the Province.

Additional sum
to be paid
when amount
understated.

(3) If the commissioner or commissioners find that the statement filed has understated the amount invested in the business, the brewer or distiller in addition to paying the costs of the inquiry shall pay for his license the sum chargeable on the basis of the amount invested in the business as reported by the commissioner or commissioners, and fifty per cent. added to such sum. 62 V. (2), c. 31, s. 14.

License may
issue pending
inquiry.

(4) If in any case the Minister is unwilling to accept the statement filed as correct, and contemplates the issue of a commission of inquiry, or if such a commission is issued and the commissioner or commissioners have not reported, the Minister may notify the applicant for a license that the license will be issued to him upon the basis of the statement filed, but that the right to make inquiry is reserved; and in such case, notwithstanding the issue of the license, the inquiry may be proceeded with in the same manner and with the like effect as if the license had not been issued.

License to be
void on non-
payment of
amount found
due by com-
mission.

(5) If in any such case the commissioner or commissioners find that the statement filed has understated the amount invested in the business then, unless the licensee, within ten days of his being notified of the said finding, pays to the Treasurer of Ontario, such an amount as with the amount previously paid by him for license fees will make up the sum of money which would be payable for a license on the basis of the amount invested in the business as reported by the commissioner or commissioners and fifty per cent. added to such sum the said license so issued shall become and be *ipso facto* void. 62 V. (2), c. 31, s. 15.

Remission of
additional
penalty where
misstatement
made in good
faith.

(6) If the commissioner or commissioners find that the statement so filed understates the amount on which the fee should be paid, but also certify that the understatement was not made with the intent and for the purpose of evading the payment of the proper amount but was made in good faith and with no improper motive, the Lieutenant-Governor in Council may upon the recommendation of the Minister direct the remission of so much of the added percentage and of so much of the costs as to him in his discretion may seem meet. 62 V. (2), c. 31, s. 16.

(7) The costs of the commission shall be ascertained by the Minister who, where the same are payable to the Crown, may by warrant under his hand and seal direct the sheriff of the county or the bailiff of any division court in the county to levy the same with costs by distress upon any goods or chattels, wherever found, of the brewer or distiller, or upon any goods or chattels in or upon the brewery or distillery premises or on lands used in connection therewith. 62 V. (2), c. 31, s. 17.

Costs, enforcing payment of.

166.—(1) If a brewer or a distiller sells, barter, or otherwise disposes of any liquor without having a Brewer's or Distiller's Provincial License, as the case may be, he shall for each such sale forfeit to His Majesty double the amount he would have been required to pay for such a license, to be recovered with costs in an action at the suit of the Crown, to be tried by a judge without a jury. 62 V. (2), c. 31, ss. 19, 20.

Penalty for selling without license.

(2) In any action brought under this section it shall be presumed that the defendant would have been required to pay the maximum license fee applicable to his business unless he proves to the satisfaction of the judge who tries the case the amount actually invested in his business. 62 V. (2), c. 31, s. 21 (1).

Onus on defendant of proving amount invested.

(3) The penalties imposed by this section shall be recovered only at the instance or under the authority or by the consent of the Attorney-General of Ontario. 62 V. (2), c. 31, s. 23.

Actions to recover penalties.

(4) In any such action the Attorney-General of Ontario shall have the same right either before or after the trial to require the production of documents, to examine parties or witnesses, or to take such other proceedings in aid of the action as a plaintiff has or may take in an ordinary action. 62 V. (2), c. 31, s. 21 (2).

Production of documents and examination of witnesses.

167.—(1) If the amount for which action is brought under section 166 is paid or levied the Minister may direct the issue of a license to the defendant without the payment of any other license fee, but no such license shall be issued if the license year has expired.

Penalties may be applied on license fees.

(2) The issue of such license shall not affect any prosecution or other proceeding then pending, and nothing in section 166 shall relieve any brewer or distiller from any penalty or punishment which may be imposed summarily under Part I, nor shall the imposition of any such penalty or punishment relieve any brewer or distiller from liability under the provisions of this Part. 62 V. (2), c. 31, ss. 22, 24.

Act not to relieve against penalties under Part I.

Wholesale Licenses.

168.—(1) Wholesale licenses may be issued at any time during the year, by the Minister, upon a written requisition

Wholesale licenses.

therefor signed by the applicant, and after payment to the Treasurer of Ontario for the uses of the Province of the proper fee; and every such license shall be issued in such form as the Lieutenant-Governor in Council may direct, and may be transferred or otherwise dealt with as may be provided by regulations of the Lieutenant-Governor in Council. 6 Edw. VII. c. 47, s. 32.

What authorized by such licenses.

(2) A wholesale license shall be for selling liquor, by wholesale only, in the warehouse, store, shop, or place of the applicant, to be designated in such license. R.S.O. 1897, c. 245, s. 34 (2).

Non-resident applicant for wholesale license.

(3) In case the applicant for a wholesale license is not a resident of Ontario and has no permanent place of business in Ontario, it shall not be necessary to designate the premises in which the business is to be carried on. 10 Edw. VII. c. 94, s. 3.

Fee.

(4) The fee for a wholesale license shall be \$500. 10 Edw. VII. c. 94, s. 6.

Payment of fee in instalments.

(5) The fee may be paid in two equal instalments, one on the 1st day of May and the other on or before the 31st day of October following, and upon payment of the first instalment the Minister may issue a permit to which the provisions of subsection 6 of section 13 shall *mutatis mutandis* apply. See 62 V. (2), c. 31, s. 28, *part*; and 1 Edw. VII. c. 12, s. 26.

(6) A wholesale license may be granted to an incorporated company, and for that purpose, section 19 shall *mutatis mutandis* apply. *New*.

169. The Minister may in any case refuse to issue a wholesale license if he deems such refusal expedient in the public interest. 1 Geo. V. c. 64, s. 13, *part*.

Regulations as to issue of wholesale licenses.

170. A wholesale license shall be granted only to a person who carries on the business of selling by wholesale or in unbroken packages, and shall be and become void in case the holder thereof, at any time during the currency of the said license, directly or indirectly, or by or with any partner, clerk, agent or other person, carries on, upon the premises to which such license applies, the business of a retail dealer in any other goods, wares or merchandise. R.S.O. 1897, c. 245, s. 35.

Liquor not to be consumed on premises of persons having license by wholesale.

171. No person holding a license to sell by wholesale, shall allow any liquor sold by him or in his possession for sale, and for the sale or disposal of which such license is required, to be consumed within his warehouse or shop, or within any building which forms part of or is appurtenant to, or which communicates by any entrance with any warehouse, shop or other premises wherein any article to be sold or disposed of

under such license is sold by retail or wherein there are kept any broken packages of such articles. R.S.O. 1897, c. 245, s. 63.

172. Subject to any regulations or restrictions which the Lieutenant-Governor in Council may impose, manufacturers of native wines, from grapes grown and produced in Ontario, shall be exempt from the payment of any license fee under this Act, if such wines are sold upon the premises in which they are manufactured and by wholesale quantities as defined by this Part, such wines to be wholly removed and not drunk upon the premises. R.S.O. 1897, c. 245, s. 36; 1 Geo. V. c. 64, s. 11. *Amended.*

Sample and Commission Licenses.

173.—(1) No person shall act in Ontario as the agent or employee of any person not a resident of Ontario for the purpose of selling liquor by sample or on commission or otherwise in Ontario or for soliciting or receiving orders for delivery of liquor to any person, whether licensed or unlicensed, unless the person so acting has taken out and is the holder of a "Sample and Commission License," but nothing in this subsection shall apply to the holder of a wholesale license under this Part.

(2) Every person contravening the provisions of subsection 1 shall incur the penalties provided by Part 1 for the sale of liquor without the license required by law.

(3) A sample and commission license shall authorize the holder thereof to sell liquor not the property of such license holder by sample or on commission and to solicit and receive orders for such liquor from persons who are the holders of licenses under Part 1 in the quantities authorized by a wholesale license whether such liquor is in Ontario or is held in bond or otherwise elsewhere.

(4) The annual fee to be paid for a sample or commission license shall be \$300 and shall be payable to the Treasurer on or before the first day of May in each year.

(5) Sample and commission licenses shall be issued annually by the Minister on the 1st day of May, upon the production of the receipt of the Treasurer of Ontario for the amount of the license fee. 9 Edw. VII. c. 82, s. 44.

PART III.

SALE OF LIQUOR BY DRUGGISTS, AND SALE OF PATENT AND OTHER MEDICINES, AND OF ALCOHOL FOR THE PURPOSES OF THE ARTS AND MANUFACTURES.

Interpretation. **174.** In this Part,

- "Alcohol." (a) "Alcohol" shall mean "ethylic" or absolute alcohol; 1 Geo. V. c. 65, s. 1;
- "Manufacturer." (b) "Manufacturer" shall mean a manufacturer for sale by wholesale; 61 V. c. 30, s. 1, *part*.
- "Original and unbroken package." (c) "Original and Unbroken Package" shall mean the package in which the patent or proprietary medicine is put up by the manufacturer; 61 V. c. 30, s. 1, *part*; and
- "Wholesale druggist." (d) "Wholesale Druggist" shall mean a person, firm or company engaged in supplying druggists with drugs, patent or proprietary medicines, compounds, preparations or other articles and commodities usually kept and dealt in by druggists. 1 Geo. V. c. 65, s. 1, *part*.

Sale of liquor
by druggists.
Rev. Stat.
c. 164.

175.—(1) Nothing in Part I. shall prevent a druggist from keeping liquor for sale for strictly medicinal purposes, or from selling liquor for strictly medicinal purposes in packages of not more than six ounces at any one time, or from selling for strictly medicinal purposes any mixture containing liquors mixed with any other drug or medicine in packages of not more than one pint at any one time, but in either case only under a *bona fide* prescription of such liquor or mixture duly signed by a legally qualified medical practitioner. R.S.O. 1897, c. 245, s. 52 (1).

Record of
sales.

(2) Every druggist shall record in a book to be kept for that purpose every sale or other disposal by him of liquor sold under and forming an ingredient in such prescription; and such record shall show as to every such sale or disposal, the time when, and the person to whom the same was made, the quantity sold and the prescription, when one is required, of such medical practitioner; and in default of such sale or disposal being so placed on record, every such sale shall be held to be in contravention of the provisions of sections 48 and 49. R.S.O. 1897, c. 245, s. 52 (2); 61 V. c. 30, s. 6.

Book open to
inspection by
commissioners,
Inspector and
other officials.

(3) Such book shall be kept open to the inspection of the License Commissioners, Inspector, Provincial Inspector, or any other person appointed by the Minister, and producing

his written authority in that behalf, and may be in the following form :

Date	Name.	Residence.	Kind and quantity.	Purpose or use.	Price.	Name of medical practitioner.

(4) In a township a druggist who is also a legally qualified medical practitioner may himself give the certificate provided for in this section, and may also give such certificate in any village or police village where there is no other legally qualified medical practitioner resident and practising therein, but not otherwise. R.S.O. 1897, c. 245, s. 52 (3), (5). When druggist may himself give medical certificate.

(5) Any druggist who sells or otherwise disposes of any liquor to be consumed within his shop, or within the building of which such shop forms part or which communicates by any entrance therewith, either by the purchaser or by any other person not usually resident therein, as a beverage, or with soda water, seltzer, apollinaris, ginger ale, ginger beer, sarsaparilla, or any aerated, mineral or effervescent drink, shall incur the penalties imposed by section 65. R.S.O. 1897, c. 245, s. 52 (7), and s. 62, *part*. Selling liquor with other beverages.

(6) Nothing in this section shall restrict the sale of methylated alcohol or oil of whiskey, or other medicines for cattle or horses. R.S.O. 1897, c. 245, s. 52 (4). Exceptions.

176. Nothing in Part I. shall apply to or prevent the sale by a druggist of any drug or medicine for strictly medicinal purposes, notwithstanding the mixture with such drug or medicine of alcohol as one of the necessary and *bona fide* ingredients thereof, if the quantity of alcohol so sold at any one time does not exceed six ounces. 61 V. c. 30, s. 4. Drugs mixed with alcohol.

177. Nothing in Part I. shall prevent a druggist from selling, without the certificate of a legally qualified medical practitioner, liquor in quantities of not more than six ounces at any one time when the same is required owing to a serious injury or to the fainting of a person who may be brought or shall come into the premises of the druggist or into contiguous premises, or in or upon premises adjacent to them, and the same is urgently required for the relief of such person. 61 V. c. 30, s. 5. Sale of liquor by druggists in case of accidents, etc.

178. Nothing in Part I. shall prevent the sale by a druggist or a merchant or company dealing in drugs and medicines, or a merchant or company dealing in patent or Patent or proprietary medicines.

proprietary medicines of any such medicine in the original and unbroken package, if such medicine contains only sufficient alcohol to hold the medicinal constituents thereof in solution or to prevent fermentation. 61 V. c. 30, s. 2.

Certain
tinctures,
medicines,
perfumes, etc.

179.—(1) Nothing in Part I. shall prevent the sale

(a) by a druggist, or by the manufacturer, of

(i) any tincture, fluid extract, essence or medicated spirit containing alcohol prepared according to the formula of the British Pharmacopœia or other recognized standard work on pharmacy, or

(ii) medicine or other similar official compound or preparation, or

(iii) a perfume, or,

(iv) for purely medicinal purposes, any mixture so prepared containing alcohol and other drugs or medicine; nor,

(b) by a merchant who deals in drugs and medicines, of such compounds, mixtures and preparations as are in this subsection hereinbefore mentioned and are so made or put up by a druggist or manufacturer,

by reason only that the same contain alcohol; nor

(c) by a druggist, of alcohol in quantities of not more than one gallon at any one time for use in the arts or manufactures. 61 Vict. c. 30, s. 3.

Printing of
formula where
preparation
contains more
than two and a
half per cent.
of alcohol.

(2) If any such compound, mixture or preparation contains more than two and one-half per cent. of alcohol and is not prepared according to the formula of the British Pharmacopœia or other recognized standard work as hereinbefore mentioned the same shall not be sold or offered for sale in Ontario, unless the formula in accordance with which it is prepared is either printed plainly upon a label or wrapper affixed to the bottle or package in which such compound, mixture or preparation is contained or a copy of such formula, verified by affidavit in the form prescribed by the Provincial Secretary has been deposited in the office of the Provincial Secretary.

Penalty.

(3) Any neglect or omission to comply with the requirements of subsection 2 shall be an offence against Part I.; and the sale of any such compound, mixture or preparation during the continuance of such neglect or omission shall be conclusively deemed a colourable device for the evasion of Part I. within the meaning of section 180 and may be dealt with accordingly.

(4) If any such compound, mixture or preparation pur-^{Application of s. 180.}porting to be prepared in accordance with any formula appearing upon the label or wrapper affixed to any bottle or package or so filed in the office of the Provincial Secretary is found to contain a larger amount of alcohol than is required to hold the medicinal constituents thereof in solution or to prevent fermentation, or to contain a larger percentage of alcohol than is set out in such formula, the person selling the same shall be conclusively deemed to be guilty of a colourable device for the evasion of Part I. within the meaning of section 180. 1 Geo. V. c. 65, s. 2.

(5) If a druggist is charged with a contravention of any^{How druggist may exculpate himself.} of the provisions of subsection 2 but proves that he sold the compound, mixture or preparation in question in the same state as when he purchased it and that he could not with reasonable diligence have obtained knowledge of the fact that the provisions of that subsection had not been complied with he shall not be found guilty; but the magistrate hearing^{Forfeiture of the article.} the case may order that such compound, mixture or preparation found in the possession of such person be forfeited to the Crown; and the Minister may make such disposition of it as he may think fit. 1 Geo. V. c. 65, s. 3.

180.—(1) Where the magistrate before whom a com-^{Colourable ss. es.}plaint is heard finds that any patent or proprietary medicine mentioned or referred to in section 178 or any other medicine, preparation or mixture mentioned or referred to in sections 176, 177 or 179, has been put up, manufactured or sold as a colourable device for the evasion of the provisions of Part I., the offender shall incur the penalties imposed by Part I. as in the case of sale of liquor without the license required by law.

(2) It shall not be necessary in the information, sum-^{Charging the offence.}mons, warrant, conviction, distress warrant, commitment or other process or proceeding, except the finding or judgment, to set out that such patent or other medicine, preparation or mixture was put up, manufactured or sold as a colourable device for the evasion of Part I., but it shall be sufficient if the complaint and all other necessary statements of the offence allege or refer to the sale of liquor without the license required by law. 61. V. c. 30, s. 7.

181.—(1) A druggist or other person who keeps patent or^{Analysis of patent medicines kept by druggists.}proprietary medicines for sale shall, upon request made in writing, signed by an officer of the License Branch, to be named for that purpose by the Minister, permit an Inspector, or such other person as shall be named therein, to take away a sample sufficient for the purpose of analysis of any patent or proprietary medicine kept by him for sale.

Penalty.

(2) Any person who refuses to comply with such request shall incur a penalty of not less than \$10 nor more than \$40. 61 V. c. 30, s. 8.

Druggist, keeping liquor on premises for domestic use.

182.—(1) Any druggist may keep or have upon his premises, for his own domestic use, a reasonable quantity of beer, ale, porter, or lager beer, and may keep or have upon his premises or elsewhere for use in his business “ethylic” or absolute alcohol, and may keep or have upon his premises or elsewhere for domestic use or for use in his business any other kind of liquor to the extent of ten gallons, but not more.

Evidence of guilt.

(2) Except as permitted by subsection 1 no druggist shall, without the license required by law keep or have upon his premises or elsewhere any liquor whatever, and the keeping or having upon his premises or elsewhere by a druggist, without such license of any liquor save as aforesaid shall be conclusive evidence that the same was kept by him for sale in contravention of this Act, and such liquor may in such case be seized and dealt with in all respects as liquor unlawfully kept for sale on licensed premises; and in the case of “ethylic” or absolute alcohol kept by such druggist upon his premises or elsewhere, if a magistrate having jurisdiction finds that the quantity kept was larger than was reasonably required, having regard to the circumstances of the case, such druggist may be found guilty of keeping liquor for sale in contravention of this Act. 1 Geo. V. c. 65, s. 4, *part*.

Penalty for sale by druggist without license.

183. Any druggist who keeps for sale or who sells or barter any liquor without the license required by law except when authorized to do so by this or any other Act shall for the first offence on conviction thereof incur the penalties imposed by section 65 for selling, and for a second or any subsequent offence shall on conviction thereof incur the penalty imposed by section 65 as for a second offence for selling; and in addition thereto his certificate authorizing him to carry on the business of a “chemist and druggist” in Ontario shall *ipso facto* be void and be of no force or effect whatever for a period of two years from the date of his conviction, a copy of which shall forthwith be sent to the Registrar of the Ontario College of Pharmacy, or until the Council of such College shall see fit in its discretion, after the expiration of such period of two years to reinstate such druggist, who shall not in the meantime be eligible as a member, director or shareholder of any incorporated company dealing in drugs or medicine in Ontario. 1 Geo. V. c. 65, s. 4, *part*.

Sworn statement as to amount of liquor sold.

184.—(1) Every druggist shall within seven days after demand by the Minister supply the Minister with a written statement verified by affidavit of the amount and kind of liquor

purchased by him during the period specified in such demand, the dates when and the persons from whom such liquor was purchased.

(2) Any person who makes default in supplying such state-^{Penalty.}ment shall incur a penalty of \$20 for each day during which such default continues. 1 Geo. V. c. 65, s. 4, *part*.

185. A wholesale druggist may, notwithstanding any-<sup>Sales by
wholesale
druggists.</sup>thing in Part I., sell to a druggist "ethylic" or absolute alcohol for use in his business as such druggist; but this provision shall only apply to wholesale druggists who have filed with the License Branch at Toronto a certificate, which shall be annually renewed not later than the first day of May in each year, signed by the Registrar of the Ontario College of Pharmacy, that the holder of such certificate is a wholesale druggist within the meaning of this Part. 1 Geo. V. c. 65, s. 4, *part*.

186. Nothing in this Part shall affect *The Pharmacy Act*.<sup>Rev. Stat.
c. 164.</sup>
See 61 Vict. c. 30, ss. 9, 10.

FORM 1.

(Section 12.)

CERTIFICATE.

To the Board of License Commissioners of the License District of

We, the undersigned electors of polling subdivision number _____ of the _____, wherein are situate the premises in respect of which X.Y. is applying for a _____ license for the ensuing license year, do hereby certify that X.Y., the applicant for the said license, is a fit and proper person to be licensed to sell liquors and to keep a _____, and that the premises in which the said X.Y. proposes to carry on the business for which he seeks a license are, in our opinion, suitable therefor, and that the same are situate in a place where the carrying on of the said business will not be an annoyance to the public generally.

And we have hereto appended our names and the distances, approximately, at which we respectively reside, or own property, from the said premises for which the license is sought.

Signatures,

{ Distance of premises
respectively from
premises sought to
be licensed.

R.S.O. 1897, c. 245, Sched. A.

FORM 2.

(Section 13.)

FORM OF BOND BY APPLICANT FOR A TAVERN LICENSE.

Know all men by these presents, that we, *T.U.*, of *V.W.*, of , and *X.Y.*, of , are held and firmly bound unto His Majesty King George the Fifth, His Heirs and Successors, in the penal sum of \$400 of good and lawful money of Canada--that is to say, the said *T.U.* in the sum of \$200, the said *V.W.* in the sum of \$100, and the said *X.Y.* in the sum of \$100 of like good and lawful money, for payment of which well and truly to be made, we bind ourselves and each of us, our heirs, executors and administrators, firmly by these presents.

Whereas the above bounden *T.U.* is about to obtain a license to keep a tavern or house of entertainment in the of , the condition of this obligation is such, that if the said *T.U.* pays all fines and penalties which he may be condemned to pay for any offence against any statute or other provision having the force of law, now or hereafter to be in force, relative to any tavern or house of public entertainment, and does, performs and observes all the requirements thereof, and conforms to all rules and regulations that are or may be established by competent authority in such behalf, then this obligation shall be null and void, otherwise to remain in full force, virtue and effect.

In witness whereof we have signed these presents with our hands, and sealed them with our seals, this day of , A.D. 19 .

Signed, sealed and delivered
in the presence of us

}

X. Y. [L. S.]
T. U. [L. S.]
V. W. [L. S.]

R.S.O. 1897, c. 245, Sched. B.

FORM 3.

(Section 13.)

FORM OF BOND BY APPLICANT FOR A SHOP LICENSE.

Know all men by these presents, that we, *T.U.*, of *V.W.*, of , and *X.Y.*, of , are held and firmly bound unto His Majesty King George the Fifth, His Heirs and Successors, in the penal sum of \$400 of good and lawful money of Canada--that is to say, the said *T.U.* in the sum of \$200, the said *V.W.* in the sum of \$100, and the said *X.Y.* in the sum of \$100, of like good and lawful money, for payment of which well and truly to be made, we bind ourselves and each of us, our heirs, executors and administrators, firmly by these presents.

Whereas the above bounden *T.U.* is about to obtain a license to keep a shop wherein liquor may be sold by retail in the of ; the condition of this obligation is such, that if the said *T.U.* pays all fines and penalties which he may be condemned to pay for any offence against any statute or other provision having the force of the law, now or hereafter to be in force, relative to any shop wherein liquor may be sold by retail, and does, performs and observes all the requirements thereof, and conforms to all rules and regulations that are or may be established by competent authority in such behalf, then this obligation shall

be null and void, otherwise to remain in full force, virtue and effect.

In witness whereof we have signed these presents with our hands and sealed them with our seals, this _____ day of _____

Signed, sealed and delivered } X. Y. [L.S.]
in the presence of us. } T. U. [L.S.]
V. W. [L.S.]

R.S.O. 1897, c. 245, Sched. C.

FORM 4.

(Section 21.)

PROVISIONAL CONSENT TO TRANSFER OF LICENSE BY THE INSPECTOR PENDING THE DECISION OF THE BOARD OF COMMISSIONERS.

In pursuance of section 21 of *The Liquor License Act*, I hereby consent that the Licensee named in the annexed license, his assigns or legal representatives, may provisionally transfer the hereunto annexed license, and all his and their interests therein to _____ to be held by him subject to all the provisions of the said Act; the written consent to such transfer by the Board of License Commissioners, to be hereafter obtained within the time prescribed by law.

Dated this _____ day of _____ A.D. 19 _____

Inspector.

N.B.—This provisional consent shall remain in force for _____ days from the date hereof, and no longer.

Countersigned.

Commissioner.

R.S.O. 1897, c. 245, Sched. D.

FORM 5.

(Sections 84 and 91.)

GENERAL FORM OF INFORMATION.

ONTARIO. } THE INFORMATION of A.B., of the township of
County of York, } York, in the County of York, License In-
To Wit: } spector, laid before me, C.D., Police Magis-
trate, in and for the City of Toronto, [or one of His Majesty's
Justices of the Peace, in and for the County of York], the
day of _____ A.D. 19 _____

The said informant says, he is informed and believes that X.Y. on the _____ day of _____ A.D. 19 _____, at the Township of York, in the County of York, unlawfully did sell liquor without the license therefor by law required [or as the case may be—See forms in Schedule F.]

Laid and signed before me the
day and year, and at the
place first above mentioned.

C.D.
P.M. or J.P.

A.B.

R.S.O. 1897, c. 245, Sched. E.

FORM 6.

(Section 91.)

FORMS FOR DESCRIBING OFFENCES.

1. *Neglecting to keep license exposed.* (Section 46.)

"That X.Y. having a license by wholesale [or a shop or a tavern license] on at unlawfully and wilfully (or negligently) omitted to expose the said license in his warehouse [or shop, or in the bar-room of his tavern, as the case may be.]

2. *Neglecting to exhibit notice of license.* (Section 47.)

"That X.Y. being the keeper of a tavern [or inn or house or place of public entertainment] in respect of which a tavern license has duly issued and is in force, on at unlawfully did not exhibit over the door of such tavern, [or inn, etc.,] in large letters, the words, "Licensed to sell wine, beer, and other spirituous or fermented liquors," or "Licensed to sell beer and wine," as required by *The Liquor License Act*."

3. *Sale without license.* (Section 48.)

"That X.Y., on the day of A.D. 19 , at in the County of unlawfully did sell liquor without the license therefor by law required."

4. *Keeping liquor without license.* (Section 49.)

"That X.Y., on at unlawfully did keep liquor for the purpose of sale, barter and traffic therein, without the license therefor by law required."

5. *Sale of liquor on licensed premises during prohibited hours.* (Sections 50 and 51.)

"That X.Y. on at in his premises [or on, or out of, or from, his premises] being a place where liquor may be sold, unlawfully did sell [or dispose of] liquor during the time prohibited by *The Liquor License Act*, for the sale of the same.

6. *Allowing liquor to be drunk on licensed premises during prohibited hours.* (Sections 50, 51 and 66.)

"That X.Y. on at in his premises, being a place where liquor may be [or is] sold, by retail [or wholesale] unlawfully did allow [or permit] liquor to be drunk in such place during the time prohibited by *The Liquor License Act* for the sale of the same.

7. *Sale of less than lawful quantity.* (Section 2.)

"That X.Y., having a shop license on at unlawfully did sell liquor in a less quantity than allowed by law."

8. *Sale under wholesale license in less than wholesale quantities.* (Section 152 (c).)

"That X.Y., having a license to sell by wholesale on at , unlawfully did sell liquor in a less quantity than allowed by law.

9. *Sale (or keeping for sale) under beer and wine license of liquor other than authorized by the license.* (Section 35.)

"That X.Y., being the holder of a Beer and Wine License on at , did unlawfully sell [or give, or keep for sale] other liquor than is authorized by his license, in the house and upon the premises for which such license has been granted."

10. *Allowing liquor to be consumed in a shop.* (Section 58.)

"That X.Y., having a shop license on at unlawfully did allow liquor to be consumed within his shop [or within the building of which his shop forms a part, or within a building which communicates by an entrance with his shop].

11. *Allowing liquor to be consumed on premises under wholesale license.* (Section 171.)

"That X.Y., having a license by wholesale on _____ at _____, unlawfully did allow liquor to be consumed within his warehouse [or shop, or within a building which forms part of, (or is appurtenant to or which communicates by an entrance with a warehouse or shop, or premises) wherein an article to be sold (or disposed of) under such license, is sold by retail (or wherein there is kept a broken package of an article for sale under such license)]"

12. *Illegal sale by druggists.* (Section 175.)

"That X.Y. being a druggist on _____ at _____, did unlawfully sell liquor for other than strictly medicinal purposes [or sell liquor in packages of more than six ounces at one time without a certificate from any legally qualified medical practitioner, or sell liquor without recording the same], as required by *The Liquor License Act*.

13. *Keeping a disorderly house.* (Section 75.)

"That X.Y., being the keeper of a tavern [or ale-house, or beer-house, or house of public entertainment], situate in the City [or Town, or Village, or Township] of _____ in the County of _____ on _____ in his said tavern [or house] unlawfully did sanction [or allow] gambling, [or riotous, or disorderly conduct] in his said tavern [or house].

14. *Harbouring constables on duty.* (Section 76.)

"That X.Y., being licensed to sell liquor at _____, on _____, unlawfully and knowingly did harbour [or entertain or suffer to abide and remain on his premises] O.P., a constable belonging to a police force.

15. *Compromising or compounding a prosecution.* (Section 77.)

"That X.Y., having violated a provision of *The Liquor License Act*, on _____ at _____, unlawfully did compromise [or compound, or settle, or offer, or attempt to compromise, compound, or settle], the offence with A.B., with the view of preventing any complaint being made in respect thereof [or with the view of getting rid of, or of stopping, or of having the complaint made in respect thereof dismissed, as the case may be]."

16. *Being concerned in compromising a prosecution.* (Section 77.)

"That X.Y., on _____, at _____, unlawfully was concerned in [or a party to] a compromise [or a composition, or a settlement] of an offence committed by O.P., against a provision of *The Liquor License Act*."

17. *Tampering with a witness.* (Section 78.)

"That X.Y., on a certain prosecution under *The Liquor License Act*, on _____, at _____, unlawfully did tamper with O.P., a witness in such prosecution, before [or after] he was summoned [or appeared] as such witness on a trial [or proceeding] under the said Act, [or unlawfully did induce, or attempt to induce O.P., a witness in such prosecution, to absent himself, or to swear falsely]."

18. *Refusing to admit policeman.* (Section 130.)

"That X.Y., on the _____, at _____, being in (or having charge of) the premises of O.P., being a place where liquor is sold [or reputed to be sold unlawfully] did refuse [or fail] to admit [or did obstruct or attempt to obstruct] E.F., an officer demanding to enter in the execution of his duty [or did obstruct or attempt to obstruct E.F., an officer making searches in said premises, and in the premises connected with such place]."

19. *Officer refusing to prosecute.* (Sections 129 and 136.)

"That X.Y., being a police officer [or constable, or Inspector of Licenses] in and for the _____, in the County _____,

knowing that O.P. had on at committed an offence against the provisions of *The Liquor License Act*, unlawfully and wilfully did, and still does, neglect to prosecute the said O.P. for his said offence."

R.S.O. 1897, c. 245, Sched. F.

FORM 7.

(Section 91.)

FORM OF INFORMATION FOR SECOND, THIRD OR FOURTH OFFENCE.

ONTARIO, } THE INFORMATION of A.B., of, etc., License In-
County of York, } spector, laid before me, C.D., Police Magis-
To Wit: } trate in and for the of
[or one of His Majesty's Justices of the Peace in and for the County
of], the day of A.D. 19 .

The said Informant says he is informed and believes that X.Y.,
on , at , [describe last offence].

And further that the said X.Y. was previously, to wit: on the
day of A.D. 19 , at the City of Toronto,
before C.D., Police Magistrate in and for the of [or
at the of , in the County of York, before E.F. and
G.H., two of His Majesty's Justices of the Peace for the County
of], duly convicted of having, on the day of
19 , at the of , in the County of , unlawfully
sold liquor without the license therefor required by law [or as the
case may be].

And further, that the said X.Y. was previously, to wit: on the
day of A.D. 19 , at the of
, in the County of , before, etc. [as in preceding
paragraph], again duly convicted of having, on the day of
, A.D. 19 , at the of , in the
County of , having a shop license, unlawfully allowed liquor
to be consumed within a building which communicates by an en-
trance with his shop.

And further, that the said X.Y. was previously, to wit: on the
day of A.D. , at the town of ,
in the County of , before, etc. (see above), again duly
convicted of having, on the day of , A.D. ,
at the of , in the County of (being in
charge of the premises of O.P., a place where liquor was reputed to
be sold), unlawfully failed to admit E.F., an officer demanding to
enter in the execution of his duty.

And the informant says the offence hereinbefore firstly charged
against the said X.Y. is his fourth offence against *The Liquor
License Act*.

Laid and signed before me the day
and year, and at the place first
above mentioned.
C.D.,
J.P. }

A.B.

R.S.O. 1897, c. 245, Sched. G.

FORM 8.

(Section 91.)

SUMMONS TO WITNESS.

ONTARIO,
County of York, } To J.K., of the City of Toronto, in the County
To Wit: } of York.

Whereas, information has been laid before me, C.D., one of His Majesty's Justices of the Peace in and for the of (or Police Magistrate for the of), that X.Y. being a druggist, on the day of , 19 , at the Township of , in the County of , unlawfully did sell liquor for other than strictly medicinal purposes, and it has been made to appear to me that you are likely to give material evidence on behalf of the prosecutor in this behalf.

These are to require you, under pain of imprisonment in the Common Gaol, personally to be and appear on Tuesday, the day of , A.D. 19 , at ten o'clock in the forenoon, at the of , in the of , before me or such Justice or Justices of the Peace as may then be there, to testify what you shall know in the premises [and also to bring with you and there and then produce all and every invoices, cash books, day books, or ledgers and receipts, promissory notes, or other security relating to the purchase or sale of liquor by the said X.Y., and all other books and paper, accounts, deeds, and other documents in your possession, custody or control, relating to any matter connected with the said prosecution].

Given under my hand and seal this day of , A.D. 19 , at the of , in the County of ,
C.D.,
J.P. (L.S.)

R.S.O. 1897, c. 245, Sched. H.

FORM 9.

(Section 91.)

FORM OF CONVICTION FOR FIRST OFFENCE.

ONTARIO, } BE IT REMEMBERED that on the day
County of York, } of A.D. 19 , at the of
To Wit: } in the said County of York, X.Y.
was convicted before me, C.D., Police Magistrate in and for the of (or before us, E.F. and G.H., two of His Majesty's Justices of the Peace in and for the said County), for that he, the said X.Y., on the day of , A.D. 19 , at the of , in the said County, in his premises, being a place where liquor may be sold, unlawfully did sell liquor during the time prohibited by *The Liquor License Act* for the sale of the same, without any requisition for medicinal purposes, as required by said Act, being produced by the vendee or his agent (or as the case may be). A.B. being the informant, and I (or we) adjudge the said X.Y., for his said offence, to forfeit and pay the sum of \$, to be paid and applied according to law, and also to pay to the said A.B. the sum of \$ for his costs in this behalf, and if the said several sums be not paid forthwith, then [I or we] order the said sums to be levied by distress and sale of the goods and chattels of the said X.Y., and in default of sufficient distress in that behalf [or if distress is not ordered omit the foregoing words and proceed] I (or we) adjudge the said X.Y. to be imprisoned in

the Common Gaol for the County of _____, at _____ in the said County, and there to be kept for the space of *fifteen days*, unless the said sums and the costs and charges of conveying the said X.Y. to the said Common Gaol shall be sooner paid.

Given under my hand and seal [or our hands and seals] the day and year first above mentioned, at the _____ of _____, in the County aforesaid.

C.D., _____ (L.S.)

Police Magistrate.

or E.F., _____ (L.S.)

J.P.

G.H., _____ (L.S.)

J.P.

R.S.O. 1897, c. 245, Sched. I.

FORM 10.

(Section 88.)

FORM OF CONVICTION FOR A THIRD OFFENCE.

ONTARIO, } BE IT REMEMBERED that on the _____ day
County of York, } of _____, A.D. 19____, in the _____ of
To wit: } _____, in the said County, X.Y. is con-
victed before the undersigned C.D., Police Magistrate in and for
the _____ of _____, in the said County [or C. D. and E.F., two
of His Majesty's Justices of the Peace in and for the said County],
for that he, the said X.Y., on the _____ day of
A.D. 19____, at the _____ of _____ [or _____ of _____], in
said County (as the case may be), having violated a provision of
The Liquor License Act, unlawfully did attempt to settle the offence
with A.B., with the view of having the complaint made in respect
thereof dismissed. And it appearing to me [or us] that the said
X.Y. was previously, to wit: on the _____ day of
A.D. 19____, at the City of Toronto, before, etc., duly convicted of
having, on the _____ day of _____, A.D. 19____, at the
_____ of _____, unlawfully sold liquor without a license there-
for by law required. And it also appearing to me [or us] that the
said X.Y. was previously, to wit: on the _____ day of
A.D. 19____, at the _____ of _____, before, etc., (see above)
again duly convicted of having, on the _____ day of
A.D. 19____, at the _____ of _____, being the keeper of a tavern
situate in the said _____ of _____, unlawfully allowed gambling
in his said tavern (or as the case might be).

I [or we] adjudged the offence of said X.Y., hereinbefore firstly
mentioned to be his third offence against *The Liquor License Act*
(A.B. being the informant), and I [or we] adjudged the said X.Y.,
for his said third offence, to be imprisoned in the Common Gaol
of the said _____ of _____, at _____, in the said County
of _____, there to be kept without hard labour [or with hard
labour, as the case may be] for the space of three calendar months
(or as the case may be).

Given under my hand and seal [or our hands and seals] the day
and year first above mentioned, at Toronto, in the County of York.

C.D., _____ (L.S.)

or

C.D., _____ (L.S.)

E.F., _____ (L.S.)

R.S.O. 1897, c. 245, Sched. J.

FORM 11.

(Section 91.)

WARRANT OF COMMITMENT FOR FIRST OFFENCE WHERE A PENALTY IS IMPOSED.

ONTARIO, } To ALL or any of the Constables or other Peace
County of } Officers in the said County of
To WIT: } and to the Keeper of the Common Gaol,
of the said County at } in the County of

Whereas X.Y., late of the of in the said County, was on this day convicted before the undersigned, C.D., Police Magistrate in and for the of [or C.D. and E.F.], two of His Majesty's Justices of the Peace in and for the of or County of (as the case may be), for that he, the said X.Y., on at, unlawfully did sell liquor without the license therefor by law required (state offence as in the conviction), (A.B. being the informant), and it was thereby adjudged that the said X.Y., for his offence, should forfeit and pay the sum of (as in conviction), and should pay to the said A.B. the sum of for his costs in that behalf.

And it was thereby further adjudged that if the said several sums should not be paid forthwith, the said X.Y. should be imprisoned in the Common Gaol of the said County at in the said County of, there to be kept at hard labour (or as the case may be) for the space of, unless the said several sums and the costs and charges of conveying the said X.Y. to the said Common Gaol should be sooner paid.

And whereas the said X.Y. has not paid the said several sums, or any part thereof, although the time for payment thereof has elapsed.

[If a distress warrant issued and was returned, no goods, or not sufficient goods, say, "And whereas, afterwards on the day of A.D. 19, I the said Police Magistrate (or we, the said Justices), issued a warrant to the said Constables or Peace Officers, or any of them, to levy the said several sums of and by distress and sale of the goods and chattels of the said X.Y.;

"And whereas it appears to me (or us) as well, by the return of the said warrant of distress by the Constable who had the execution of the said or otherwise, that the said Constable has made diligent search for the goods and chattels of the said X.Y., but that no sufficient distress whereon to levy the said sums could be found."]

These are, therefore to command you, the said Constables or Peace Officers, or any one of you, to take the said X.Y., and him safely convey to the Common Gaol aforesaid, at in the County of, and there deliver him to the Keeper thereof, together with this precept.

And I (or we) do hereby command you, the said Keeper of the said Common Gaol, to receive the said X.Y. into your custody in the said Common Gaol, there to imprison him and keep him for the space of (without hard labour or with hard labour, as the case may be) unless the said several sums and all costs and charges of the said distress, amounting to the sum of and of the commitment and conveying of the said X.Y. to the said Common Gaol, amounting to the further sum of, shall

be sooner paid unto you, the said Keeper, and for so doing this shall be your sufficient warrant.

Given under my hand and seal (or our hands and seals) this
day of _____, at _____, in the said
County of _____

C.D. _____ (L.S.)

or

C.D. _____ (L.S.)

E.F. _____ (L.S.)

R.S.O. 1897, c. 245, Sched. K.

FORM 12.

(Section 91.)

WARRANT OF COMMITMENT FOR SECOND (or THIRD) OFFENCE, WHERE
PUNISHMENT IS BY IMPRISONMENT ONLY.

ONTARIO, } To ALL or any of the Constables or other Peace
County of York, } Officers in the said County of
To Wit: } and to the Keeper of the Common Gaol of
the said County at _____, in the County of _____

Whereas X.Y., late of the _____ of _____ in the said
County, was on this day convicted before the undersigned, C.D.,
etc., (or C.D. and E.F., etc., as in preceding form); for that he, the
said X.Y., on _____ at _____ (state offence, with pre-
vious convictions, as set forth in the conviction for the second or
third offence, or as the case may be, and then proceed thus): "And
it was thereby adjudged that the offences of the said X.Y., herein-
before firstly mentioned, was his second (or third) offence against
The Liquor License Act (A.B. being the informant). And it was
thereby further adjudged that the said X.Y., for his said second
(or third) offence should be imprisoned in the Common Gaol of the
said County of _____, at _____, in the said County of _____,
and there to be kept without hard labour (or with hard labour,
as the case may be) for the space of three calendar months.

These are, therefore, to command you, the said Constables, or any
one of you, to take the said X.Y., and him safely convey to the
said Common Gaol, at _____, aforesaid, and there deliver him to
the Keeper thereof, with this precept. And I (or we) do hereby
command you, the said Keeper of the said Common Gaol to receive
the said X.Y. into your custody in the said Common Gaol, there
to imprison him and to keep him without hard labour (or with
hard labour, as the case may be) for the space of three calendar
months.

Given under my hand and seal (or our hands and seals), this
day of _____, A.D. 19____, at _____, in the said County
of _____

C.D. _____ (L.S.)

or

C.D. _____ (L.S.)

E.F. _____ (L.S.)

R.S.O. 1897, c. 245, Sched. L.

FORM 13.

(Section 132.)

FORM OF DECLARATION OF FORFEITURE AND OF ORDER TO DESTROY LIQUOR SEIZED.

If in conviction, after adjudging penalty or imprisonment, as in Form 7, proceed thus:

"And I [or we] declare the said liquor and vessels in which the same is kept, to wit: two barrels containing beer, three jars containing whiskey, two bottles containing gin, four kegs containing lager beer, and five bottles containing native wine [or as the case may be], to be forfeited to His Majesty, and I [or we] do hereby order and direct that T.D., License Inspector of the do forthwith destroy the said liquor and vessels."

Given under my hand and seal the day and year above mentioned, at, etc.

If by separate or subsequent Order:

"COUNTY OF YORK, } We, E.F. and G.H., two of His Majesty's
To Wit: } Justices of the Peace for the County of
[or C.P., Police Magistrate of the }
having on the day of 19, at the Township of
, in said County, duly convicted X.Y. of having unlawfully kept liquor for sale without license, do hereby declare the said liquor and vessels in which the same is kept, to wit: [describe the same as above], to be forfeited to His Majesty, and we [or I] do hereby order and direct that J.P.W., License Inspector of the do forthwith destroy the said liquor and vessels.

Given under our [or my] hands and seals, this day of , A.D. 19, at the Township of Scarboro, in the said County.

E.F. (L.S.)

or
G.H. (L.S.)

C.D. (L.S.)

R.S.O. 1897, c. 245, Sched. M.

FORM 14.

(Section 40.)

CANADA.

PROVINCE OF ONTARIO.

This is to certify that , of the , having paid into the License Fund of the the statutory duty of two dollars, is hereby authorized to act as a bar tender within the License District of for the current license year of , subject to the provisions of the law in that behalf. This license shall expire on the last day of April next ensuing.

Dated this day of , A.D.,

License Inspector
for the License District of

6 Edw. VII. c. 47, s. 6 (9).

FORM 15.

(Section 164.)

To be used in the case of a Company.

We, _____, of the _____, of _____, in the County of _____, each (or ourselves) make oath and say:

1. That I, the said _____, am the President (or as the case may be) of the company, licensed by the Government of the Dominion of Canada as a brewer (or distiller, as the case may be), and that I, the said _____, am the Manager (or as the case may be) of the said company.

2. That the said company carries on business as a brewer (or distiller) in the _____ of _____, in the County of _____.

3. That the amount invested in the said business on the day of _____ last was as nearly as I can ascertain, after careful investigation and computation, and to the best of my knowledge, and as I verily believe, \$ _____.

4. That, in ascertaining the said amount so invested in the said business, there has been, and is, included the value of all the lands, buildings and plant used or occupied in the said business of brewer (or distiller) for the purpose of such business as such brewer (or distiller) and the value of the goods, chattels, personal property and other assets belonging to the business or used in connection therewith, and the value of the stock in trade on hand on the day aforesaid, except malt, without the deduction therefrom of the liabilities of the said company.

Sworn before me at the _____, in the County of _____, this _____ day of _____, A.D. 19 _____.

62 V. (2), c. 31, Sched. N., Form No. 1; 63 V. c. 42, s. 2.

FORM 16.

(Section 164.)

To be used in the case of a Partnership.

I, _____, of the _____, of _____, in the County of _____, make oath and say:

1. That I am a member of the partnership firm of _____ licensed by the Government of the Dominion of Canada as brewers (or distillers), and have personal knowledge of the details of the said business and with all facts hereinafter set out.

2. That the said partnership firm is composed of the following members: (Give names of all members of the partnership firm).

3. That the said partnership firm carries on business as brewers (or distillers) in the _____, of _____, in the County of _____.

4. That the amount invested in the said business of the said partnership firm on the _____ of _____ last was as nearly as I can ascertain, after careful investigation and computation and to the best of my knowledge and as I verily believe, \$ _____.

5. That, in ascertaining the said amount so invested in the said business, there has been, and is, included the value of all the lands, buildings and plant used or occupied in the said business of brewer (or distiller), for the purposes of such business as such brewer (or distiller), and the value of the goods, chattels, personal property, and other assets belonging to the business or used in connection therewith, and the value of the stock in trade on hand on the day aforesaid, except malt, without the deduction therefrom of the liabilities of the said partnership firm.

Sworn before me at the
in the County of _____, this
day of _____, A.D. 19 ____.

62 V. (2), c. 31, Sched. N., Form No. 2; 63 V. c. 42, s. 2.

FORM 17.

(Section 164.)

To be used in the case of an Individual.

I, _____, of the
of _____, in the County _____, make oath
and say:

1. That I am a brewer (or distiller), licensed by the Government of the Dominion of Canada (or as the case may be).

2. That I carry on my business as a brewer (or distiller) in the
of _____ in the County of _____.

3. That the amount invested in my said business on the
day of _____ last was as nearly as I can ascertain after careful
investigation and computation, and to the best of my knowledge
and as I verily believe, \$ _____.

4. That, in ascertaining the said amount so invested in the said business, there has been and is included the value of all the lands, buildings and plant used or occupied in the said business of brewer (or distiller) for the purpose of such business as such brewer (or distiller) and the value of the goods, chattels, personal property and other assets belonging to the business or used in connection therewith, and the value of the stock in trade on hand on the day aforesaid, except malt, without the deduction therefrom of any liabilities of the said business.

Sworn before me at the
in the County of _____, this
day of _____, A.D. 19 ____.

63 V. (2), c. 31, Sched. N., Form No. 3; 63 V. c. 42, s. 2.

6. PUBLIC MORALS.

Chapter 246 of the Revised Statutes of Ontario, 1897, known as "An Act to Prevent the Profanation of the Lord's Day, is omitted from the present Revision.

In *Attorney-General for Ontario v. The Hamilton Street Railway Company and others*, [1903] A. C. 524.—it was *Held* that "An Act to prevent the Profanation of the Lord's Day" (Revised Statutes of Ontario, 1897, c. 246) treated as a whole is ultra vires of the Ontario Legislature. The criminal law in its widest sense is reserved by s. 91, sub-s. 27 of the British North America Act, 1867, for the exclusive authority of the Dominion Parliament; and an infraction of the above Act is an offence against criminal law.

Chapter 104 of the Consolidated Statutes for Upper Canada, An Act to Prevent the Profanation of the Lord's Day in Upper Canada, which was embodied in the subsequent revisions, Revised Statutes of Ontario, 1877, chapter 189, Revised Statutes of Ontario, 1887, chapter 203, and Revised Statutes of Ontario, 1897, chap. 246, is as follows:—

Whereas it is expedient to enact a law against the profanation of the Lord's Day, commonly called Sunday, which day ought to be duly observed and kept holy: Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. It is not lawful for any merchant, tradesman, artificer, mechanic, workman, labourer or other person whatsoever, on the Lord's Day to sell or publicly show forth, or expose, or offer for sale, or to purchase any goods, chattels, or other personal property, or any real estate whatsoever, or to do or exercise any worldly labour, business or work of his ordinary calling (conveying travellers or Her Majesty's mail, by land or by water, selling drugs and medicines and other works of necessity, and works of charity, only excepted). 8 V. c. 45, s. 1.

2. It is not lawful for any person on that day to hold, convene, or to attend any public political meeting, or to tipple, or to allow or permit tippling in any inn, tavern, grocery or house of public entertainment, or to revel, or publicly exhibit himself in a state of intoxication, or to brawl or use profane language in the public streets or open air, so as to create any riot or disturbance, or annoyance to Her Majesty's peaceable subjects.

3. It is not lawful on that day to play at skittles, ball, foot-ball, racket, or any other noisy game, or to gamble with dice or otherwise, or to run races on foot, or on horseback, or in carriages, or in vehicles of any sort. 8 V. c. 45, s. 2.

4. Except in defence of his property, from any wolf or other ravenous beast or a bird of prey, it is not lawful for any person on that day to go out hunting or shooting, or in quest of, or to take, kill or destroy, any deer or other game, or any wild animal,

or any wild fowl or bird, or to use any dog, gun, rifle or other engine, net or trap, for the above mentioned purpose. 8 V. c. 45, s. 1.

5. It is not lawful for any person on that day to go out fishing or to take, kill or destroy any fish, or to use any gun, fishing rod, net or other engine for that purpose. 8 V. c. 45, s. 1.

6. It is not lawful for any person on that day to bathe in any exposed situation i. e. any water within the limits of any incorporated city or town, or within view of any place of public worship, or private residence. 8 V. c. 45, s. 1.

7. Any person convicted before a Justice of the Peace of any act hereinbefore declared not to be lawful, upon the oath or affirmation of one or more than one creditable witness, or upon view had of the offence by the said justice himself, shall, for every such offence, be fined in a sum not exceeding forty dollars, nor less than one dollar, together with the costs and charges attending the proceedings and conviction. 8 V. c. 45, s. 3.

8. All sales and purchases, and all contracts and agreements for sale or purchase, of any real or personal property whatsoever, made by any person or persons on the Lord's Day shall be null and void. 8 V. c. 45, s. 2.

9. When any person has been charged upon oath or otherwise, in writing, before any Justice of the Peace, with any offence against this Act, the said Justice shall summon the person so charged to appear before him, at a time and place to be named in such summons, and if such person fails or neglects to appear accordingly, then (upon proof of due service of the summons upon such person, by delivering or leaving a copy thereof at his house, or usual or last place of abode, or by reading the same over to him personally,) the said Justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending such person, and bringing him before himself, or some other Justice of the Peace having jurisdiction within the same county or municipality; and the justice before whom the person charged appears or is brought, shall proceed to hear and determine the case, or the said justice, on view of the offence, may verbally order, or if on the complaint of a third party, then may, in writing, order the offender to be at once committed (although it be on the Lord's Day) to the common gaol of the place, or into other safe custody, there to remain until the morrow, or some other day, according to circumstances, until the case be heard and disposed of. 8 V. c. 45, s. 4.

10. The justice before whom any person is convicted of any offence against this Act, may cause the conviction to be drawn up in the following form, or in other form of words to the same effect, as the case may require, that is to say: 8 V. c. 45, s. 5.

Be it remembered, that on the _____ day of _____, in the year of our Lord, eighteen _____, at _____, in the County of _____, (or at the City of _____, as the case may be,) A.B., of _____, is convicted before me, C.D., one of Her Majesty's Justices of the Peace for the said county, (or city, as the case may be,) for that he, the said A.B., did (specify the offence and the time and place, when and where the same was committed, as the case may be); and I, the said C.D., adjudge the said A.B., for his offence to pay, (immediately, or on or before the _____ day of _____,) the sum of _____, and also the sum of _____, for costs; and in default of payment of the said sums respectively, to be imprisoned in the common gaol of the said county (or city, as the case may be) for the space of _____ months, unless the said sums be sooner paid; and I direct that the said sum of

(*the penalty*) shall be paid as follows, that is to say; one moiety thereof to the party charging the offence, and the other moiety to the Treasurer of the County, (*naming the one in which the offence was committed, or Chamberlain, of the said city, as the case may be*) to be by him applied according to the provisions of the Act, (*insert the title of this Act*).

Given under my hand and seal, the day and year first above mentioned.

C.D., J.P. (L.S.)

11. A conviction under this Act shall not be quashed for want of form; nor shall any Warrant of Commitment be held void by reason of any defect therein, if it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the commitment. 8 V. c. 45, s. 6.

12. In default of payment of any fine imposed under this Act, together with the costs attending the same, within the period by the Justice of the Peace before whom such conviction takes place, specified for the payment thereof at the time of conviction, such Justice of the Peace (if he deems it expedient so to do) may issue his Warrant directed to any Constable to levy the amount of such fine and costs within a certain time, to be in the said Warrant expressed; and in case no distress sufficient to satisfy the amount be found, he may commit the offender to the common gaol of the county wherein the offence was committed, for any term not exceeding three months, unless the fine and costs be sooner paid. 8 V. c. 45, s. 7.

13. The prosecution for any offence punishable under this Act, must be commenced within one month after the commission of the offence, and not afterwards; and the evidence of any inhabitant of the county or municipality in which the offence has been committed, shall be admitted and receivable, notwithstanding the fine incurred by the offence may be payable for the benefit of such municipality; but the party who makes the charge in writing before the Justice, shall not be admitted as a witness in the case. 8 V. c. 45, s. 8.

14. In case a person thinks himself aggrieved by any conviction or decision under this Act, then, in case such person, within six days after such conviction or decision, and ten days at least before the first Court of General Quarter Sessions of the Peace, or in cities before the first Recorder's Court, (if there be a Recorder's Court) to be held not sooner than twelve days next after such conviction or decision, may appeal in the manner provided in and subject to the provisions of the Act respecting Appeals in cases of Summary Conviction. 8 V. c. 45, s. 9.

15. Every Justice of the Peace before whom any person is convicted of any offence against this Act, shall transmit the conviction to the next Court of General Quarter Sessions, or Recorder's Court (*as the case may be*) to be holden for the county or city wherein the offence was committed, there to be kept by the proper officer among the records of the court. 8 V. c. 45, s. 10.

16. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act, shall be laid and tried in the county where the fact was committed, and must be commenced within six months after the fact committed, and not afterwards; and notice in writing, of such action, and of the cause thereof, must be given to the defendant one month at least before the action; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon. 8 V. c. 45, s. 11.

17. No plaintiff shall recover in such action, if tender of sufficient amends be made before such action brought, or if a sufficient sum of money be paid into court after such action brought, by or on behalf of the defendant; and if a verdict passes for the defendant, or the plaintiff becomes non-suit, or discontinues any such action after issue joined, or if upon demurrer or otherwise judgment be given against the plaintiff, the defendant may recover his full costs, as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases. 8 V. c. 45, s. 11.

18. All sums of money awarded or imposed as fines or penalties, by virtue of this Act, shall be paid as follows, that is to say, one moiety thereof shall be paid to the party charging the offence in writing before the Justice, and the other moiety to the treasurer of the county or city wherein the offence was committed, to be by him accounted for in the same manner as for other moneys deposited with or paid over to him. 8 V. c. 45, s. 12.

19. This Act is not to extend to the people called Indians. 8 V. c. 45, s. 14.

CHAPTER 216.

An Act to Prevent Minors from Frequenting
Billiard Rooms and other Places.

HIS MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, en-
acts as follows:—

Short title.

1. This Act may be cited as *The Minors' Protection Act*.
2 Geo. V. c. 57, s. 1.

Penalty for
admitting
minor under
eighteen.

2. The keeper of a licensed billiard, pool or bagatelle room, kept directly or indirectly for hire or gain, who admits a minor under the age of 18 years thereto, or allows him to remain therein, without the consent of his parent or guardian, shall incur a penalty not exceeding \$10 for the first, and not exceeding \$20 for each subsequent offence, recoverable under *The Ontario Summary Convictions Act*. 2 Geo. V. c. 57, s. 2.

Rev. Stat.
c. 90.

When Act not
to apply.

3. This Act shall not apply where the minor is a member of the family of the keeper or his servant, or does not go to the billiard, pool or bagatelle room for the purpose of loitering or to play billiards, pool or bagatelle therein, or the keeper had reasonable cause to believe that such consent had been given by the parent or guardian, or that such minor was not under the age of eighteen. 2 Geo. V. c. 57, s. 3.

CHAPTER 217.

An Act for the better preventing of excessive
and deceitful Gaming.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as *The Gaming Act*. 2 Geo. V. Short title.
c. 56, s. 1.

2. Every agreement, note, bill, bond, confession of judgment, *cognovit actionem*, warrant of attorney to confess judgment, mortgage, or other security, or conveyance, the consideration for which, or any part of it, is money or other valuable thing won by gaming, or playing at cards, dice, tables, tennis, bowls, or other game, or by betting on the sides or hands of the players, or for reimbursing, or repaying, any money knowingly lent or advanced for such gaming, or betting, or lent, or advanced, at the time and place of such game or play, to any person so gaming, playing, or betting, or who, during such game or play, so plays, games, or bets, shall be deemed to have been made, drawn, accepted, given, or executed for an illegal consideration. 2 Geo. V. c. 56, s. 2.

Security given in gaming transaction, given for illegal consideration.
9 Anne, c. 19.
(or c. 14 in Ruffhead's Ed.) s. 1, as amended by 3 Ed. VII. c. 1, s. 8.

3. If any person makes, draws, gives, or executes, any note, bill, or mortgage, for any consideration which is hereinbefore declared to be illegal, and actually pays to any indorsee, holder, or assignee of such note, bill, or mortgage, the amount of the money thereby secured or any part thereof, such money shall be deemed to have been paid for and on account of, the person to whom such note, bill, or mortgage was originally given, and to be a debt due and owing from such last named person to the person who paid such money, and shall accordingly be recoverable by action. 2 Geo. V. c. 56, s. 3.

Recovery back of money paid on gaming transaction. Imp. Act, 5 & 6 W. 4, c. 41, s. 2.

4. Any person who, at any time or sitting, by playing at cards, dice, tables, or other game, or by betting on the sides or hands of the players, loses to any person so playing or betting, in the whole, the sum or value of \$40 or upwards, and pays or delivers the same or any part thereof, shall be at liberty, within three months thereafter, to sue for and recover the money or thing so lost and paid or delivered. 2 Geo. V. c. 56, s. 4.

Recovery of money lost at one sitting to the extent of \$40 or more.
9 Anne, c. 19.
(or c. 14 in Ruffhead's Ed.), s. 2.

Payment of
wagers not
enforceable.
Imp. Act, 8
& 9 V., cap.
109, s. 18.

Exception.

5. Every contract or agreement by way of gaming or wagering shall be null and void; and no suit shall be brought or maintained for recovering any sum of money or valuable thing alleged to be won upon any wager, or which has been deposited in the hands of any person to abide the event on which any wager has been made; but this section shall not apply to any subscription or contribution, or agreement to subscribe or contribute for or towards any plate, prize, or sum of money to be awarded to the winner of any lawful game, sport, pastime or exercise. 2 Geo. V. c. 56, s. 5.

Promises to
repay sums
paid under
contract void
by section 5.

Imp. Act 55
& 56 V.,
c. 9, s. 1.

6. Any promise, express or implied, to pay any person any sum of money paid by him under or in respect of any contract or agreement rendered null and void by section 5, or to pay any sum of money by way of commission, fee, reward, or otherwise in respect of any such contract or agreement, or of any services in relation thereto or in connection therewith, shall be null and void, and no action shall be brought or maintained to recover any such sum of money. 2 Geo. V. c. 56, s. 6.

7. PUBLIC HEALTH.

CHAPTER 218.

An Act respecting the Public Health.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

SHORT TITLE.

1. This Act may be cited as *The Public Health Act*. 2 Geo. Short title. V. c. 58, s. 1.

INTERPRETATION.

2. In this Act,—

Interpreta-
tion.

- (a) "Chief Officer" shall mean the Chief Officer of Health for Ontario; "Chief officer."
- (b) "Communicable disease" shall mean and include "any contagious or infectious disease, and shall include smallpox, chickenpox, diphtheria, scarlet fever, typhoid fever, measles, German measles, glanders, cholera, erysipelas, tuberculosis, mumps, anthrax, bubonic plague, rabies, poliomyelitis and cerebro-spinal meningitis, and any other disease which may be declared by the Regulations to be a communicable disease;" "Communicable disease."
- (c) "House" or "household" shall include a dwelling house, lodging house, or hotel, and a students' residence, fraternity house, or other building in which any person in attendance as a student, pupil or teacher, or employed in any capacity in or about a university, college, school or other institution of learning resides or is lodged; "House," "Household."
- (d) "Householder" shall include the proprietor, master, mistress, manager, housekeeper, janitor, and caretaker of a house; "Householder."
- (e) "Local Board" shall mean the local board of health for any municipality; "Local Board."

- "Medical Officer of Health." (f) "Medical Officer of Health" shall mean the medical officer of health of the municipality appointed under this Act;
- "Member of a household." (g) "Member of a household" shall mean a person residing, boarding or lodging in a house;
- "Minister." (h) "Minister" shall mean the member of the Executive Council of Ontario charged by the Lieutenant-Governor in Council with the administration of this Act;
- "Municipality." (i) "Municipality" shall not include a county;
- "Occupier." (j) "Occupier" shall mean the person in occupation or having the charge, management or control of any premises, whether on his own account or as the agent of any person;
- "Owner." (k) "Owner" shall mean the person for the time being entitled in his own right, or as trustee, mortgagee in possession, guardian, committee, agent, or otherwise, to receive the rents, issues and profits of any property or from any premises;
- "Premises." (l) "Premises" shall mean and include any land or any building, public or private, sailing, steam or other vessel, any vehicle, steam, electric or street railway car for the conveyance of passengers or freight, any tent, van, or other structure of any kind, any mine, and any stream, lake, drain, ditch or place, open, covered or enclosed, public or private, natural or artificial, and whether maintained under statutory authority or not;
- "Provincial Board." (m) "Provincial Board" shall mean the Provincial Board of Health;
- "Regulations." (n) "Regulations" shall mean regulations made by the Provincial Board under the authority of this Act;
- "Street." (o) "Street" shall include any highway, and any public bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not. 2 Geo. V. c. 58, s. 2.

PROVINCIAL BOARD OF HEALTH.

Provincial Board, how constituted.

3.—(1) The Lieutenant-Governor in Council may appoint not more than six persons, who, with the Chief Officer of Health, shall constitute the Provincial Board of Health for Ontario.

Term of office.

(2) The members of the Board so appointed shall hold office for three years from the date of appointment, and shall be eligible for re-appointment.

(3) At least four members of the Board shall be legally qualified medical practitioners. Four to be medical men.

(4) The Lieutenant-Governor in Council may designate one of the members of the Board to be the Chairman thereof. Chairman.

(5) The members of the Board so appointed shall be paid such salary or other remuneration as may be voted by the Assembly, together with their actual travelling and other necessary expenses while employed on the business of the Board. Remuneration. 2 Geo. V. c. 58, s. 3.

4.—(1) The Lieutenant-Governor in Council may appoint a legally qualified medical practitioner of at least five years' standing to be the Chief Officer of Health for Ontario. Chief Officer —appointment—qualification.

(2) The Chief Officer of Health shall be *ex officio* a member of the Board, and shall be the Secretary thereof. Ex-officio member and secretary of Board.

(3) The Chief Officer of Health shall be the executive officer of the Board, and in the intervals between the meetings of the Board shall perform such duties and shall have such powers as are imposed upon or by this Act vested in the Board. Duties and powers.

(4) The Lieutenant-Governor in Council may also appoint a duly qualified medical practitioner, of at least five years' standing, to be Provincial Inspector of Health. Provincial Inspector of Health.

(5) The Provincial Inspector of Health may exercise, anywhere in Ontario any of the powers conferred by this Act on medical officers of health, and he shall act, under the direction of the Provincial Board, and shall perform such duties as may be assigned to him by the Board or by the Chief Officer of Health. Duties and powers. 2 Geo. V. c. 58, s. 4.

5.—(1) The Provincial Board shall meet at least four times in every year. Meetings.

(2) A majority of the Provincial Board shall be a quorum. Quorum.

(3) The Board may make rules regulating the transaction of its business, and may provide therein for the appointment of committees to whom it may delegate authority and power for the work committed to them. Rules and by-laws. 2 Geo. V. c. 58, s. 5.

6. It shall be the duty of the Provincial Board, and it shall have power to,— Duties and powers of Board.

(a) Make investigations and enquiries respecting the causes of disease and mortality in Ontario or in any part thereof; Investigations as to disease and mortality.

(b) Advise the officers of the Government in regard to public health generally, and as to drainage, water supply, disposal of garbage and excreta, heating, ventilation and plumbing of premises; Advising as to sanitary matters.

Oversight of
vaccine and
serum.

- (c) Exercise a careful oversight of vaccine matter and serum produced or offered for sale in Ontario, or manufacture the same if deemed advisable, and as far as possible prevent the sale of the same when found to be impure or inert, and see that a supply of proper vaccine matter is obtainable at all times at such vaccine farms and other places as are subject to inspection by the Board;

Enquiring into
alleged
nuisances.

- (d) Determine whether the existing condition of any premises or of any street, or public place, or the method of manufacture or business process, or the disposal of sewage, trade or other waste, garbage or excrementitious matter is a nuisance or injurious to health;

Inspection of
sanitary con-
ditions in
gaols, etc.

- (e) Inspect all county gaols, prisons, houses of refuge, asylums, hospitals, sanatoria, orphanages, homes or places of refuge, charitable institutions and other public or private institutions for the safe keeping, custody or care of any person confined therein by process of law, or received or cared for therein at his own charges or by public or private charity, and see that such institutions are kept in a proper sanitary condition and that this Act and the Regulations are complied with;

Distribution of
literature.

- (f) Make public distribution of sanitary literature, especially during the prevalence in any part of Ontario of any communicable disease, and pay particular attention to all matters relating to the prevention and spread of communicable diseases in such manner as the Board may deem best to control any outbreak;

Entry on
premises and
orders as to
alterations
therein.

- (g) Enter into and go upon any premises in the exercise of any power or the performance of any duty under this Act, and make such orders and give such directions with regard to the structural alteration of the premises or with respect to any other matter as the Board may deem advisable in the interests of the public health. 2 Geo. V. c. 58, s. 6.

Investiga-
tion as to
disease and
mortality.

7.—(1) The Provincial Board may direct the Chairman or Secretary or any member or officer of the Board to investigate the causes of any communicable disease or mortality in any part of Ontario, and the person so directed may take evidence on oath or otherwise, as he may deem expedient, and shall, for the purposes of such investigation, possess all the powers which may be conferred upon a commissioner appointed under *The Public Inquiries Act*.

(2) Where it appears to the Board that any unsanitary condition or nuisance exists in a municipality, and that the local board has, on a proper representation of the facts, neglected or refused to take such measures as may remove such condition or abate such nuisance, the Board may direct an investigation as provided by subsection 1.

Investigation as to unsanitary conditions and nuisances.

(3) If upon such investigation it is found that a remediable unsanitary condition or nuisance exists, the Board may direct its immediate removal or abatement by the person responsible therefor, and if such person neglects or refuses after three days' notice by the Board to remove or abate the same, may cause such removal or abatement to be made, and the treasurer of the municipality shall forthwith pay out of any money of the municipality any expenses incurred under such orders. 2 Geo. V. c. 58, s. 7.

Removal or abatement.

8. The Provincial Board, with the approval of the Lieutenant-Governor in Council, may make such Regulations as may be deemed necessary for,

Regulations.

(a) The prevention or mitigation of disease;

Prevention and mitigation of disease.

(b) The frequent and effectual cleansing of streets, yards and premises;

Cleansing streets and premises.

(c) The removal of nuisances and unsanitary conditions;

Removal of nuisances, etc.

(d) The cleansing, purifying, ventilating and disinfecting of premises by the owners and occupiers or other persons having the care or ordering thereof;

Cleansing and disinfecting premises.

(e) Regulating, so far as this Legislature has jurisdiction in that behalf, the entry and departure of boats or vessels at the different ports or places in Ontario, and the landing of passengers or cargoes from such boats or vessels or from railway carriages or cars, and the receiving of passengers or cargoes on board the same, for the purpose of preventing the spread of any communicable disease;

Passenger traffic.

(f) The safe and speedy interment or disinterment of the dead, the transportation of corpses and the conduct of funerals;

Burials.

(g) The supplying of such medical aid, medicine and other articles and accommodation as the Board may deem necessary for preventing or mitigating an outbreak of any communicable disease;

Checking communicable diseases.

(h) The inspection of premises by the local board or medical officer of health, or some officer of the Provincial Board, and the cleansing, purifying and disinfecting anything contained therein when

Inspection for the purpose of disinfection.

required by the local board or officer, at the expense of the owner or occupier, and for detaining for this purpose any steamboat, vessel, railway carriage or car, or public conveyance and anything contained therein and any person travelling thereby as may be necessary;

Ordering
alteration or
destruction.

- (i) Entering and inspecting any premises used for human habitation in any locality in which conditions exist which, in the opinion of the Board, are unsanitary, or such as to render the inhabitants specially liable to disease, and for directing the alteration or destruction of any such building which is, in the opinion of the Board, unfit for human habitation;

Preventing
overcrowding.

- (j) Preventing the overcrowding of premises used for human habitation by limiting the number of dwellers in such premises and the amount of air space to be allowed for each dweller therein;

Preventing
travel by
persons ex-
posed to
infection.

- (k) Preventing the departure of persons from infected localities and for preventing persons or conveyances from passing from one locality to another, and for detaining persons or conveyances who or which have been exposed to infection for inspection or disinfection until the danger of infection is past;

Sanitary
inspectors.

- (l) Regulating the appointment of sanitary inspectors to be paid by the municipality in which they act for the purpose of enforcing this Act or the regulations, or any by-law in force in the municipality;

Surveillance.

- (m) The removal or keeping under surveillance of persons living in infected localities;

Taking pos-
session of
premises.

- (n) Authorizing the taking possession by a municipal corporation, local board of health, or medical officer of health, for any of the purposes of this Act, of any land or unoccupied building;

Health and
summer
resorts and
inland
waters.

- (o) The sanitary precautions to be taken in health resorts, summer resorts and upon boats or other vessels plying upon lakes, rivers, streams and other inland waters, and for preventing the pollution of such waters by the depositing therein of sewage, excreta, vegetable, animal or other matter or filth;

General.

- (p) Any other matter which, in the opinion of the Board, the general health of the inhabitants of Ontario or of any locality may require. 2 Geo. V. c. 58, s. 8.

9. The Provincial Board may, from time to time, declare ^{Application of regula-} all or any of such Regulations to be in force in any specified ^{tions.} municipality or locality for such time as the Board may deem expedient. 2 Geo. V. c. 58, s. 9.

10.—(1) The Regulations shall be subject to the approval ^{Approval and promulgation of regula-} of the Lieutenant-Governor in Council, and shall come into ^{tions.} force and take effect upon publication of such approval and the regulations approved in the *Ontario Gazette*.

(2) Every Regulation shall be laid before the Assembly ^{To be laid before Assembly.} forthwith if the Assembly is then in session, or if it is not then in session within fourteen days after the commencement of the next Session. 2 Geo. V. c. 58, s. 10.

11.—(1) Any order or regulation made by the Provincial ^{By-laws, etc., superseded by regula-} Board shall, while it is in force in any locality, supersede any ^{tions.} municipal by-law or other regulation, including the by-law set out in Schedule "B," dealing with the same subject matter, and so far as any such by-law or other regulation is inconsistent with the order or regulation of the Board, such by-law or other regulation shall be deemed to be suspended.

(2) Every order or regulation made by the Board shall ^{Publication of Regulations.} be published in the next report issued by the Board. 2 Geo. V. c. 58, s. 11.

12. The Chief Officer of Health and every member of the ^{Powers of members of Provincial Board and its officers.} Provincial Board, and every officer of the Board shall possess all the powers conferred upon a medical officer of health and the officers of a local board by this Act or by the Regulations. 2 Geo. V. c. 58, s. 12.

13.—(1) The Lieutenant-Governor in Council may divide ^{Health districts and district officers.} the Province for the purposes of this section into not more than ten Health Districts, and may appoint a legally qualified medical practitioner to be known as the District Officer of Health for each such District, but a city, having a population of 50,000 or over, according to the last census of Canada, shall not be included in any such District.

(2) Every District Officer of Health shall be paid an ^{Salaries.} annual salary not exceeding \$2,500 and his actual and necessary travelling and other expenses incurred in the discharge of his duties, and such salary and expenses shall be payable in the first instance out of the Consolidated Revenue Fund.

(3) The council of every county forming part of a health ^{County to reimburse Province.} district shall annually, on or before the 1st day of February, pay to the Treasurer of Ontario such proportion of the salary and expenses of the District Officer of Health, based upon the population of the county according to the last census of Canada and exclusive of the population of any city or separated town within the county, as may be certified by the Chief Officer.

Contribution
by cities of
less than
50,000 and
separated
towns.

(4) Every city having a population of less than 50,000 and every town separated from the county for municipal purposes shall pay to the Treasurer of Ontario, on or before the 1st day of February, such proportion of the salary and expenses of the District Officer of Health, based upon the population of such city or town according to the last census of Canada, as may be so certified.

In provisional
judicial
districts.

(5) In a provisional judicial district in which there is no organized municipality the salary and expenses of the District Officers of Health shall be borne and paid by the Province.

Contributions
by municipal-
ity in such
districts.

(6) In a provisional judicial district in which there are one or more organized municipalities the salaries and expenses of the District Officers of Health shall in the first instance be borne and paid by the Province, and the corporations of such municipalities shall respectively repay to the Province the same proportions thereof as would be payable by them if the district were a county.

Duties and
powers.

(7) Every District Officer of Health shall, within his district, enforce this Act and the Regulations and any other Act or Regulations respecting the health of the inhabitants of the district or their protection from communicable disease, and generally do within the district anything which a member of the Provincial Board, medical officer of health or sanitary inspector is authorized or required to do under this Act.

May act in
other
districts.

(8) Whenever required so to do by the Board, a District Officer of Health shall have the same authority and shall perform the same duties in any part of Ontario as he might do in the district for which he is appointed.

To act under
Provincial
Board.

(9) Every District Officer of Health shall act under the supervision and control of the Board, and shall report to it at least monthly, and at such other times as may be required, and shall in such report give such information as may be required by the Board or by the Regulations. 2 Geo. V. c. 58, s. 13.

LOCAL BOARDS OF HEALTH.

Local Boards.

14.—(1) There shall be a local board of health for every municipality in Ontario.

In cities and
in towns of
4,000 or
over.

(2) In a city, and in every town having a population of 4,000 or over, according to the enumeration of the assessors for the last preceding year, the local board shall consist of the mayor, the medical officer of health, and three resident ratepayers to be appointed annually by the council at its first meeting in every year.

In towns of
less than
4,000,
villages and
townships.

(3) In a town having a population of less than 4,000, according to such enumeration, and in every other municipality, the local board shall consist of the head of the muni-

cipality, the medical officer of health, and one resident ratepayer to be appointed as provided by subsection 2.

(4) There shall be a secretary of the local board, and, unless ^{Secretary.} otherwise provided by the council, the clerk shall be the secretary. 2 Geo. V. c. 58, s. 14.

15. Every local board shall be a corporation by the name ^{Corporate name.} of "The Local Board of Health of the City (or as the case may be, inserting the name of the municipality) of .". 2 Geo. V. c. 58, s. 15.

16.—(1) A local board shall hold at least four meetings ^{Meetings.} in each year at a time and place to be fixed by resolution of the board, and such other meetings as may be prescribed by the Regulations, or be required by the Board.

(2) At the first meeting of a local board in every year, ^{Chairman.} which shall be held not later than the first day of February, the board shall elect one of its members to be chairman. 2 Geo. V. c. 58, s. 16.

17. Any member of a local board may call a special meeting thereof at any time by giving notice in writing to the ^{Special meetings.} secretary and to the remaining members of the board. 2 Geo. V. c. 58, s. 17.

18. The clerk of the municipality shall report to the Provincial Board the names and addresses of the members of the local board in each year, on or before the 1st day of February, and he shall so report any change occurring during the year in the membership of the board. ^{Secretary to report membership of board to Provincial Board.} 2 Geo. V. c. 58, s. 18.

19. Whenever a vacancy occurs in any local board of a city or town by the death, resignation or removal of an appointed member the council shall, at its first meeting after such vacancy occurs, appoint a resident ratepayer to fill the same, and in default of such appointment the Provincial Board may appoint a resident ratepayer of the municipality to fill the vacancy. ^{Vacancies in board.} 2 Geo. V. c. 58, s. 19.

20. A majority of the members of a local board shall ^{Quorum.} form a quorum. 2 Geo. V. c. 58, s. 20.

21. In a township every member of a local board and the secretary shall be entitled to the sum of \$2 for every attendance at a meeting of the board, and his necessary travelling expenses in going to and returning from the same, and the amount of such remuneration and expenses shall be payable by the treasurer of the municipality upon the order of the chairman of the board. ^{Remuneration and payment of expenses.} 2 Geo. V. c. 58, s. 21.

Payment
of accounts
certified by
board.

22. The treasurer of the municipality shall forthwith upon demand, pay the amount of any account for services performed under the direction of the board and materials and supplies furnished, or for any expenditure incurred by the board or by the medical officer of health or sanitary inspector in carrying out the provisions of this Act or the Regulations, after the board has by resolution approved of the account and a copy of the resolution certified by the chairman and secretary has been filed in the office of the treasurer. 2 Geo. V. c. 58, s. 22.

Recording
proceedings.

23.—(1) The proceedings of every local board shall be recorded by the secretary in a book to be kept for that purpose.

Annual
report.

(2) The secretary shall annually, on or before the 15th day of December, prepare a report of the work done by the board during the year, and of the sanitary condition of the municipality.

Local reports
to be trans-
mitted to
Provincial
Board.

(3) The report as adopted by the local board shall include the annual report of the medical officer of health and shall be transmitted to the Secretary of the Provincial Board. 2 Geo. V. c. 58, s. 23.

Weekly
report to
Provincial
Board.

24. The secretary of every local board shall report weekly to the Provincial Board the number of cases and deaths from communicable diseases, and the number of deaths from all other causes occurring in the municipality during the preceding week, upon a form to be supplied by the Provincial Board. 2 Geo. V. c. 58, s. 24.

Enforcing
authority of
local board.

25.—(1) Whenever a local board has authority to direct that any matter or thing shall be done by any person, the board may also, in default of its being done by the person, direct that such matter or thing shall be done at the expense of the person in default, and may recover the expense thereof by action in any court of competent jurisdiction, or the board may direct that the same be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes. 2 Geo. V. c. 58, s. 25.

When local
board may
install sanitary
conveniences.

(2) Where a local board in any city recommends that sanitary conveniences should be installed in any building, and is of the opinion that the owner of the premises is unable to pay the expense of the same at once, the municipality may install suitable sanitary conveniences at the expense of the owner, and the board may direct that the cost, including interest at five per centum on the deferred payments, be paid by the owner in equal successive annual payments extending over a period not exceeding five years, and that such annual payments be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes. 3-4 Geo. V. c. 55, s. 1.

Payment by
owner in equal
annual
instalments.

26.—(1) Where an action is brought against a local board or any member, officer or employee of a local board by any person who has suffered any damage by reason of any act or default on the part of such local board or any member, officer or employee thereof, the corporation of the municipality may assume the liability or the defence of the action, and may pay any damages or costs for which such board or the member, officer or employee is liable in respect of such act or default. Municipality may assume responsibility for board or employees.

(2) In this section the word "employee" shall not include a contractor with the local board. 2 Geo. V. c. 58, s. 26. But not for contractors.

27. It shall be the duty of a local board to superintend and see to the carrying out of the provisions of this Act and of the Regulations, or of any by-law of the municipality, and to execute, do and provide all such acts, matters and things as are necessary for that purpose. 2 Geo. V. c. 58, s. 27. Duty of local board as to carrying out Act and Regulations.

28. Where information is given in writing to the local board by any resident householder of the existence of a nuisance or unsanitary condition in the municipality, the local board shall forthwith cause the complaint to be investigated and all necessary steps to be taken as provided by this Act to abate or remedy the same. 2 Geo. V. c. 58, s. 28. Complaints as to nuisances.

29. Where a medical officer of health is of opinion that the cleansing and disinfecting of any house or part thereof, or of any articles therein likely to retain infection, would tend to prevent or check any communicable disease, he shall, through the sanitary inspector or otherwise, at the cost and charge of the municipality, cleanse and disinfect such house or part thereof and the articles therein contained. 2 Geo. V. c. 58, s. 29. Cleansing and disinfecting houses, etc.

30. A local board may provide, maintain or hire an ambulance or carriage for the conveyance of persons suffering from disease or accident, and may pay the expense of conveying therein any person so suffering to a hospital or other place. 2 Geo. V. c. 58, s. 30. Ambulance.

31. A local board may provide all necessary apparatus and attendance for the disinfection or destruction of bedding, clothing or other articles which have become infected, and may cause such articles to be disinfected free of charge or may make a reasonable charge for disinfecting them. 2 Geo. V. c. 58, s. 31. Disinfecting apparatus.

32. A local board may direct the destruction of any furniture, bedding, clothing or other articles which have been exposed to infection, and may give compensation therefor. 2 Geo. V. c. 58, s. 32. Destruction of infected bedding, etc.

Appeal to
county judge
from order
of Board.

33. Where the order of a local board or medical officer of health involves an expenditure of more than \$1,000, the person against whom the order is made, or any person chargeable with such expenditure or any part thereof, may, within four days after being served with a copy of such order, appeal therefrom to the Judge of the County or District Court who shall have power to vary or rescind the order, and any order so varied may be enforced by the board in the same manner as an order originally made by the board or a medical officer of health. 2 Geo. V. c. 58, s. 33.

Powers of
Provincial
Board on
default of
local
authorities.

34.—(1) Where a local board of health has not been established as required by this Act, or where a local board of health or any officer thereof has in the opinion of the Minister refused or neglected to act with sufficient promptness or efficiency in carrying out the provisions of this Act or any order or Regulation of the Provincial Board, or to take such efficient measures as might remove any unsanitary condition or abate any nuisance, the Minister may direct the Chief Officer to carry out such measures as are authorized by this Act, or by any order or Regulation made thereunder.

Liability
for payments
of expenses.

(2) The expenses so incurred shall be certified by the Minister, and shall be a debt due by the corporation of the municipality, and upon presentation of such certificate the treasurer of the municipality shall pay the same.

Recovery
from person
responsible.

(3) Nothing in this section shall prevent the corporation from recovering from any person any money paid by the corporation under this section, as provided by section 59. 2 Geo. V. c. 58, s. 34.

MEDICAL OFFICERS OF HEALTH.

Medical
officers of
health and
sanitary
inspectors,
appointment.

35.—(1) The council of every municipality shall appoint a legally qualified medical practitioner to be the medical officer of health for the municipality, and shall also appoint such number of sanitary inspectors for the municipality as may be deemed necessary by the local board, and as may be prescribed by the Regulations.

By Lieutenant-Governor
in Council
in case of
default.

(2) Where the council refuses or neglects to make any of such appointments, or to fill any vacancy, the Provincial Board shall, by registered letter addressed to the clerk of the municipality, require the council to make the appointment or to fill the vacancy forthwith, and if the council continues in default for five days after the receipt of such letter the Lieutenant-Governor in Council, upon the recommendation of the Provincial Board, may make the appointment or fill the vacancy. 2 Geo. V. c. 58, s. 35.

Tenure of
office.

36. Every sanitary inspector appointed by the council shall hold office during the pleasure of the council, and if appointed by the Lieutenant-Governor in Council shall hold

office until the first day of February in the year following that of his appointment. 2 Geo. V. c. 58, s. 36.

37. Every medical officer of health appointed by the council shall hold office during good behaviour and his residence in the municipality, or in an adjoining municipality, and, if appointed by the Lieutenant-Governor in Council, shall hold office until the first day of February in the year following that of his appointment, and no medical officer of health shall be removed from office except for cause and with the approval of the Provincial Board. 2 Geo. V. c. 58, s. 37. Dismissal.

38. The medical officer of health shall be the executive officer of the local board, and with the local board shall be responsible for the carrying out of the provisions of this Act, and of the Regulations, and of the by-laws of the municipality. 2 Geo. V. c. 58, s. 38. M.O.H. to be executive officer of board.

39. Every medical officer of health, whether appointed by the council or by the Lieutenant-Governor in Council, shall be paid by the municipal corporation a reasonable salary to be fixed by by-law. 2 Geo. V. c. 58, s. 39. Salaries of medical officers of health.

40. Sanitary inspectors shall be paid such annual sum as may be determined by the council of the municipality. 2 Geo. V. c. 58, s. 40. Payment of sanitary inspectors.

41. Where a vacancy occurs in the office of medical officer of health, the council shall forthwith appoint another medical officer of health in his stead. 2 Geo. V. c. 58, s. 41. Vacancy in office of M.O.H.

42.—(1) There shall be an annual conference of all the medical officers of health, and it shall be the duty of every medical officer of health to attend the same. Annual conference.

(2) The expenses of the attendance of each medical officer of health shall be borne by the corporation of the municipality, and shall be payable in addition to his salary on the certificate of the Secretary of the Provincial Board. Expenses of attendance.

(3) The conference shall be held at such time and place as may be determined by the Provincial Board. 2 Geo. V. c. 58, s. 42. Time and place of holding.

ISOLATION HOSPITALS.

43.—(1) The corporation of a municipality may establish, erect and maintain one or more isolation hospitals for the reception and care of persons suffering from any communicable disease. Establishment.

(2) The corporations of two or more adjacent municipalities may join in establishing, erecting and maintaining such a hospital. Municipalities may join in establishing.

Issue of
debentures.

(3) A corporation may borrow money by the issue of debentures for the purposes mentioned in subsections 1 or 2, and it shall not be necessary to obtain the assent of the electors to any by-law for raising money for such purpose.

When pay-
able.

(4) Debentures issued under this section shall be payable within twenty years from the date of the issue thereof.

Where to be
established.

(5) Any such hospital may be established in a municipality or in one of the municipalities providing for the same or in an adjoining municipality.

Subject to
sections
44-48.

(6) The powers conferred by this section shall be subject to the provisions of sections 44 to 48, but an isolation hospital shall not be established, maintained or kept by a municipal corporation upon lands in another municipality which were selected, purchased or contracted for, or upon which the corporation had secured an option before the 1st day of January, 1912, and upon which an isolation hospital had not before that date been erected, without the consent of the council of the municipality in which such lands are situate, and unless such consent had been obtained before the 16th day of May, 1912, such land shall not be used for that purpose. 2 Geo. V. c. 58, s. 43.

Permission
for establish-
ment of isola-
tion hospitals
and consump-
tion hospitals.
Rev. Stat.
c. 198.

44. No such isolation hospital and, except as provided by *The Sanatoria for Consumptives Act*, no sanatorium, institution or place for the reception, care, or treatment of persons suffering from consumption or tuberculosis shall be established or maintained or kept within the limits of any municipality without permission to be given in the manner hereinafter provided. 2 Geo. V. c. 58, s. 44.

Application
to Local
Board.

45.—(1) Every municipal corporation and every person desiring to establish, maintain or keep any such isolation hospital, sanatorium, institution or place in a municipality, shall make application in writing to the local board of health of such municipality for permission to do so.

Notice of
meeting.

(2) The local board shall give notice of the application and of the meeting at which the same will be considered by advertisement once a week for two successive weeks in a newspaper published in the municipality or, if there is no such newspaper, in a newspaper published in an adjoining municipality.

Consideration
of applica-
tion.

Notice.

(3) The local board shall take such application into consideration at its next general meeting after the last publication of such notice, or at a special meeting to be called for the purpose within one month after that date.

Hearing and
decision.

(4) The local board shall hear the applicant for such permission in person or by counsel, and shall hear any person opposed to the granting of such permission, and shall within one month thereafter determine by resolution of the board whether or not such application shall be granted.

(5) If the local board determines not to grant such permission notice in writing of their decision shall forthwith be given to the applicant by registered letter, and the applicant may appeal from such decision to a board of appeal to be composed of the head of the municipality, the Sheriff of the county or district in which the municipality is situate, and the Secretary of the Provincial Board of Health.

Refusal of permission.

Appeal.

(6) The appeal shall be by notice in writing addressed to the Secretary of the Provincial Board, and sent by registered post to him within seven days after the receipt of notice of the decision of the local board.

Notice of appeal.

(7) The Secretary of the Provincial Board shall appoint a time and place for the consideration of the appeal, and at least seven days' notice of the time and place of hearing the appeal shall be given by registered letter addressed to the secretary of the local board and to the applicant, and by advertisement in a newspaper published in the municipality in which it is sought to establish such hospital, sanatorium, institution or place of reception, or, if there is no such newspaper, in a newspaper published in the county or district town of the county or district in which such municipality is situate.

Notice of hearing of appeal.

(8) The board of appeal shall hold a sitting at such time and place and shall hear what may be alleged for and against such appeal on behalf of the applicant and the local board of health or any ratepayer of the municipality who may object to the granting of such permission.

Hearing of appeal.

(9) The board of appeal may adjourn the proceedings for the purpose of visiting any building or proposed site and determining upon its suitability or procuring such further information as the board may deem necessary.

View of locality.

(10) The decision of the board of appeal or a majority of the members thereof shall be given in writing and shall be final.

Decision of board of appeal.

(11) Each of the members of the board of appeal shall be entitled to a fee of \$10 per day for each day during which he is necessarily engaged in connection with the appeal and reasonable and necessary expenses, and the same and any other costs and expenses incurred in hearing the appeal shall be payable by the appellant upon the written order of the Secretary of the Provincial Board to the persons entitled thereto.

Fees of board of appeal.

(12) Nothing in this section or in section 44 contained shall apply to any public general hospital in which persons suffering from other diseases as well as persons suffering from consumption or tuberculosis are received and treated.

Sections 43 and 44 not to apply to certain hospitals.

2 Geo. V. c. 58, s. 45.

46. Every person who erects, establishes or maintains any such isolation hospital, sanatorium, institution or place, or

Penalty.

who takes part in the superintendence or management thereof, until permission has been given as provided by the next preceding section, shall incur a penalty not exceeding \$25 for every day on which such offence is continued. 2 Geo. V. c. 58, s. 46.

Plans to be approved by Provincial Board.

47.—(1) No isolation hospital shall be established by the corporation of any municipality until the plans and the proposed equipment thereof shall have been submitted to and approved by the Provincial Board.

Directions of Provincial Board as to alterations, etc.

(2) Every municipal corporation establishing such an isolation hospital shall from time to time make such alterations therein and such changes or improvement in the equipment thereof as may be directed by the Provincial Board. 2 Geo. V. c. 58, s. 47.

Control of the local board.

48. Subject to the Regulations the local board of the municipality, by the corporation of which an isolation hospital is established, shall have the management and control of it, and of the conduct of the physicians, nurses, attendants and patients. 2 Geo. V. c. 58, s. 48.

EMERGENCY HOSPITALS.

Temporary emergency hospitals in case of outbreak of disease.

49. Where any communicable disease, to which this section is by the Regulations made applicable, becomes prevalent in a municipality, and the municipal corporation has not already provided proper hospital accommodation for such cases, the medical officer of health of a local board shall immediately provide, at the cost of such corporation, such a temporary hospital, hospital tent, or other place or places of reception for the sick and infected as may be deemed best for their accommodation and the safety of the inhabitants, and for that purpose may,—

- (a) Erect such hospital, hospital tent, or place of reception;
- (b) Contract for the use of any existing hospital, hospital tent, or place of reception; or,
- (c) Enter into an agreement with any person having the management of any such hospital, subject to the approval of the medical officer of health of the local municipality in which such hospital is situate, for the reception and care of persons suffering from such communicable disease, and for the payment of such remuneration therefor as may be agreed upon. 2 Geo. V. c. 58, s. 49.

ACQUIRING LAND.

Occupying land in case of emergency.

50.—(1) Where an outbreak of any of the diseases, to which the next preceding section applies, occurs or is apprehended, the local board of health may enter upon and take

and use for the purposes mentioned in that section any land or unoccupied building without prior agreement with the owner of the same and without his consent, and may retain the same for such period as may appear to the board to be necessary.

(2) Written notice, Schedule A., shall, within five days after the taking or obtaining possession, be given by the board to the clerk of the municipality wherein the land or unoccupied building is situate; such notice shall be given whether possession is taken or obtained with the consent of the owner or otherwise.

Notice to clerk of local municipality.

(3) Where possession is taken without the consent of the owner, the board shall, within five days after taking possession, give the like notice to the owner.

Notice to owner where not a consenting party.

(4) If the owner is not known, or is not a resident in Ontario, or if his residence is unknown to the board, the board shall cause the notice to be published in two successive issues of some local newspaper having a circulation within the municipality where the property is situate, and shall send by registered post to the last known address, if any, of the owner a copy of the notice, and such publication shall be sufficient notice to the owner.

Where owner or his address is unknown.

(5) The owner shall be entitled to compensation from the corporation of the municipality wherein the land or building is situate, for the use and occupation thereof, including any damages arising from such use and occupation, such compensation to be agreed upon between the council of the municipality and the owner; and in case they do not agree, the Judge of the County or District Court of the county or district in which the property is situate shall summarily determine the amount of the compensation, and the terms of payment, in such manner and after giving such notice as he sees fit. 2 Geo. V. c. 58, s. 50.

Compensation.

51. Where any resistance or forcible opposition is offered or apprehended to possession being taken of the land or building, the Judge of the County or District Court may, without notice to any person, issue his warrant to the Sheriff of the county or district, or to any other person, as he may deem most suitable, requiring him to put and maintain the board, its agents or servants in possession, and to put down such resistance or opposition, which the Sheriff or other person, taking with him sufficient assistance, shall accordingly do. 2 Geo. V. c. 58, s. 51.

Order for possession.

MEDICAL CARE OF INDIGENTS.

52.—(1) The corporation of every municipality shall enter into an agreement with the medical officer of health or some other legally qualified medical practitioner resident in the municipality or in a municipality adjacent thereto for his medical attendance upon and care of persons suffering

Municipal corporation to provide for medical attendance for indigent persons.

from the result of injury or disease who, in the opinion of the head of the municipality or of its relief officer, if any, are unable through poverty to pay for the necessary attendance, and who are not cared for in a public or private hospital.

M.O.H. need not act unless remunerated.

(2) This section shall not impose any duty on the medical officer of health in respect to such cases, unless an agreement has been entered into with him, as provided in subsection 1.

Agreement to provide for remuneration.

(3) Every such agreement shall provide for fair and reasonable remuneration for the service rendered. 2 Geo. V. c. 58, s. 52.

PROVISIONS AS TO COMMUNICABLE DISEASE.

Communicable diseases. Notice by householder.

53.—(1) Whenever any householder knows or has reason to suspect that any person within his family or household, or boarding or lodging with him, has any communicable disease, he shall, within twelve hours, give notice thereof to the secretary of the local board or to the medical officer of health.

How given.

(2) The notice may be given to the secretary or to the medical officer of health at his office, or by letter addressed to either of them and mailed within the time above specified. 2 Geo. V. c. 58, s. 53.

Removal of person or clothing prohibited.

54. No householder, in whose dwelling there occurs any communicable disease, shall permit any person suffering from such disease to leave, or any clothing or other property to be removed from his house without the consent of the medical officer of health, who may forbid such removal or prescribe the conditions thereof. 2 Geo. V. c. 58, s. 54.

Report by physician.

55.—(1) Whenever any legally qualified medical practitioner knows, or has reason to suspect, that any person whom he is called upon to visit is infected with any communicable disease, he shall within twelve hours give notice thereof to the medical officer of health of the municipality in which such diseased person is.

Superintendents of hospitals, etc.

(2) This section shall apply to the medical superintendent or person in charge of any general or other hospital in which there is known to him to be a patient suffering from any communicable disease. 2 Geo. V. c. 58, s. 55.

Precautions against spread of infection.

56.—(1) Where any communicable disease is found to exist in any municipality, the medical officer of health and local board shall use all possible care to prevent the spread of infection or contagion by such means as in their judgment is most effective for the public safety.

Closing schools, churches, etc.

(2) The medical officer of health or local board, when it is considered necessary to prevent the spread of any communicable disease, may direct that any school or seminary of

learning, or any church or public hall or other place used for public gatherings or entertainment in the municipality shall be closed, and may prohibit all public assemblies in the municipality; and no such school, seminary, church, hall or public place shall be kept open after such direction for the admission of the public, nor re-opened without the permission of the medical officer of health. 2 Geo. V. c. 58, s. 56.

57. The medical officer of health, or the local board, or a committee thereof, shall isolate any person having any communicable disease, to which this section is by the Regulations made applicable, and shall forthwith cause to be posted up on or near the door of the house or dwelling, in which any such person is, a notice stating that such disease is within the house or dwelling. 2 Geo. V. c. 58, s. 57. Isolation of patient.

58.—(1) If any person coming from abroad, or residing in any municipality within Ontario, is infected, or has recently been infected with, or exposed to, any communicable disease to which this section is by the Regulations made applicable, the medical officer of health or local board shall make effective provision for the public safety by removing such person to a separate house, or by otherwise isolating him, and by providing medical attendance, medicine, nurses and other assistance and necessaries for him. Of infected persons.

(2) The corporation of the municipality shall be entitled to recover from such person the amount expended in providing such medical attendance, medicine, nurses and other assistance and necessaries for him, but not the expenditure incurred in providing a separate house or in otherwise isolating him. 2 Geo. V. c. 58, s. 58. Recovery of expenses.

59. Where, owing to the refusal or neglect of the medical officer of health, the local board or the corporation of any municipality, any communicable disease is brought into another municipality, the corporation of which incurs expense in preventing the spread of such communicable disease, the corporation of the municipality in default shall pay to the corporation of the municipality incurring such expense the whole amount thereof, and the same shall be recoverable as a debt in any court of competent jurisdiction. 2 Geo. V. c. 58, s. 59. Recovery of expense incurred through neglect or refusal to carry out Act.

60. No person suffering from any communicable disease, to which this section is by the Regulations made applicable, shall be removed at any time except by permission and under direction of the medical officer of health, nor shall any occupant of any house in which there exists any such communicable disease change his residence to any other place without the consent of the medical officer of health, or without complying with such conditions as he may prescribe. 2 Geo. V. c. 58, s. 60. Removal of patients.

Power to enter premises.

61. The medical officer of health, or a legally qualified medical practitioner appointed by him in writing for that purpose, may enter in and upon any house, out-house or premises, in the day time, for the purpose of making enquiry and examination with respect to the state of health of any person therein, and cause any person found therein, who is infected with any communicable disease, to be removed to a hospital or some other proper place. 2 Geo. V. c. 58, s. 61.

Entering and disinfecting public conveyances.

62.—(1) Where there is any reason to suspect that any person suffering from a communicable disease to which this section is by the Regulations made applicable is in or upon any railway car, street railway car, steamboat, vessel, stage, or other conveyance, the medical officer of health or sanitary inspector of the municipality, or any member of the local board, may enter such conveyance and cause such person to be removed therefrom, and may detain the conveyance until it is properly disinfected; or such officer or member may, if he thinks fit, remain on, or in, or re-enter and remain on or in such conveyance, with any assistance he may require, for the purpose of disinfecting it; and his authority shall continue in respect of such person and conveyance notwithstanding that the conveyance is taken into another municipality.

Payment by owner of conveyance.

(2) The expense incurred for medical attendance, care, nursing, maintenance and all costs for disinfection shall be paid by the owner of the conveyance in which such person is found.

Authority given by Provincial Board.

(3) Any legally qualified medical practitioner or sanitary inspector authorized by the Provincial Board shall have the same authority as a medical officer of health under this section. 2 Geo. V. c. 58, s. 62.

Removal of persons from unsanitary dwellings.

63. Where any communicable disease is reported or discovered in a dwelling house or out-house occupied as a dwelling, and such house or out-house is in a filthy and neglected state, the medical officer of health may, at the expense of the corporation of the municipality, compel the inhabitants of such dwelling house or out-house to remove therefrom, and may place them in sheds or tents, or other proper shelter, in some more suitable situation, until measures can be taken, under the direction and at the expense of the municipal corporation, for the immediate cleansing, ventilation, purification and disinfection of such dwelling-house or out-house. 2 Geo. V. c. 58, s. 63.

Patients and nurses. Precautions as to disinfection.

64. No person recovering from any communicable disease, to which this section is by the Regulations made applicable, and no nurse who has been in attendance on any such person, shall leave the premises or expose himself in any public place, street, shop, inn or public conveyance until he has received from the medical officer of health a certificate that in his

opinion such person or nurse has taken such precautions as to his person, clothing and all other things which he proposes to bring from the premises as are necessary to insure the immunity from infection of other persons with whom such person or nurse may come in contact. 2 Geo. V. c. 58, s. 64.

65. Every such person and nurse shall adopt for the disinfection and disposal of excreta, and for the disinfection of utensils, bedding, clothing and other things which have been exposed to infection, such measures as may be prescribed by the Regulations or by the medical officer of health. 2 Geo. V. c. 56, s. 65.

Measures prescribed by Provincial Board.

66. No person suffering from or having recently recovered from any communicable disease, to which this section is by the Regulations made applicable, shall mingle with the general public, and no person having access to any such person, except the attending physician and clergyman, shall do so, until such sanitary precautions as may be prescribed by the medical officer of health have been complied with. 2 Geo. V. c. 58, s. 66.

Sanitary precautions before mingling with public.

67.—(1) No person suffering from, or having recently recovered from any communicable disease, to which this section is by the Regulations made applicable, shall expose himself, nor shall any person expose any one under his charge, who is so suffering from any such disease, in any railway car, street railway car, steamboat, vessel, stage or other conveyance, without having previously notified the owner or person in charge of such conveyance of the fact of his having such disease.

Notice to be given before using public conveyance.

(2) The owner or person in charge of any such conveyance shall not, after the entry of any infected person into his conveyance, allow any other person to enter it, without having sufficiently disinfected it under the direction of the medical officer of health or sanitary inspector. 2 Geo. V. c. 58, s. 67.

Conveyance to be disinfected.

68. No person shall give, lend, transmit, sell or expose any bedding, clothing, or other article likely to convey any communicable disease, without having first taken such precautions as the medical officer of health may direct for removing all danger of communicating such disease to others. 2 Geo. V. c. 58, s. 68.

Bedding, clothing, etc.

69. No person shall let or hire, or permit to be occupied, any house or room in a house in which any communicable disease has recently existed without having caused the house and premises used in connection therewith to be disinfected to the satisfaction of the medical officer of health, and, for the purposes of this section, the keeper of an inn or house for the reception of lodgers shall be deemed to let for hire

Disinfection of houses, etc.

part of a house to any person admitted as a guest into such inn or house. 2 Geo. V. c. 58, s. 69.

False statements of persons renting or showing houses.

70. No person letting for hire, or showing for the purpose of letting for hire any house or part of a house, on being questioned by any person, negotiating for the hire of such house, or part of a house, as to the fact of there previously having been therein any person, animal or thing suffering from or liable to be infected by any communicable disease, shall knowingly make a false answer to such question. 2 Geo. V. c. 58, s. 70.

Transportation of infected persons.

71.—(1) No common carrier shall knowingly accept for transportation or carry within Ontario, except under and subject to the Regulations, any person suffering from any communicable disease, to which this section is by the regulations made applicable, or any infected article or articles of clothing, bedding or other property whatsoever.

Corpses.

(2) No carrier shall knowingly accept for transportation or carry within Ontario the body of any person who has died of any communicable disease, except under and subject to the Regulations.

Penalty.

(3) Every person contravening the provisions of subsection 1 or of subsection 2 shall incur a penalty of \$100. 2 Geo. V. c. 58, s. 71.

School attendance from houses in which communicable disease exists.

72.—(1) Whenever a communicable disease exists in any house or household in which there is a person who is a student or pupil in, or a teacher, or other person employed in any capacity in or about a university, college, school or other institution of learning, the householder shall, within twelve hours after the time such disease is known to exist, notify the principal, superintendent, head teacher or other person in charge of such institution, and also the medical officer of health, of the existence of such disease; and the person suffering therefrom shall not attend or be employed at such institution until a certificate has been obtained from the medical officer of health that he may safely do so.

Duty of local board and teacher.

(2) Whenever a local board of health, or any of its officers or members, are aware of the existence in any house of any communicable disease, they shall at once notify the principal, superintendent, head teacher or other person in charge of any university, college, school or other institution of learning at which any member of the household is in attendance, either as a student or pupil, or in or about which he is employed as a teacher, or in any other capacity, and none of such last mentioned persons shall after such notice be permitted to attend, or be employed or be in or about such institution, until the certificate mentioned in subsection 1 is obtained and presented.

(3) Whenever a professor, lecturer, instructor or teacher in any such institution of learning has reason to suspect that any other professor, lecturer, instructor or teacher in, or any student or pupil of, or any person employed in or about, such institution, is suffering from a communicable disease, or that there exists in any household of which he is a member any communicable disease, such first mentioned person shall notify the medical officer of health thereof, and shall not permit the attendance of the person suffering from such disease if under his direction or control until the medical officer of health certifies that such attendance may be safely allowed.

Teacher to give notice of cases in homes of pupils.

(4) No student or pupil having suffered from a communicable disease shall be allowed to attend any such institution of learning within the minimum period prescribed by the Regulations.

Pupil not to attend within minimum time fixed by regulations.

(5) Whenever a communicable disease exists in any boarding school or other institution in which pupils are received for tuition, and boarded or lodged, the head of the institution, or the person in charge thereof, shall immediately isolate the person suffering from such disease and any person in attendance upon him, and, within twelve hours after the disease is known to exist, shall notify the medical officer of health, and shall not permit the person so suffering or any person in attendance upon him to mingle with the other pupils or inmates of the institution until the medical officer of health has certified that he may safely do so. 2 Geo. V. c. 58, s. 72.

Boarding schools.

NUISANCES.

Removal, Abatement, etc.

73. Any condition existing in any locality which is or may become injurious or dangerous to health or prevent or hinder in any manner the suppression of disease shall be deemed a nuisance within the meaning of this Act. 2 Geo. V. c. 58, s. 73.

Nuisances, what to be deemed.

74. Without restricting the general application of the next preceding section and for greater particularity it is declared that the following shall be deemed nuisances within the meaning of this Act:

Particular nuisances.

- (a) Any premises or part thereof so constructed or in such a state as to be injurious or dangerous to health; Premises in dangerous condition.
- (b) Any street, pool, ditch, gutter, water-course, sink, cistern, water or earth closet, privy, urinal, cess-pool, drain, dung pit or ash pit, so foul or in such a state, or so situated as to be injurious or dangerous to health; Streets, pits, etc., in dangerous condition.

Water
supply.

- (c) Any well, spring or other water supply injurious or dangerous to health;

Stables,
byres, etc.

- (d) Any stable, byre or other building in which animals are kept in such a manner or in such numbers as to be injurious or dangerous to health;

Accumulations
of refuse.

- (e) Any accumulation or deposit of refuse, wherever situate, which is injurious or dangerous to health;

Offensive
matter in
uncovered
trucks or
waggons.

- (f) Any deposit of offensive matter, refuse, offal or manure contained in uncovered trucks or waggons at any station or siding or elsewhere so as to be injurious or dangerous to health;

Trades
situated so
as to be
dangerous.

- (g) Any work, manufactory, trade or business so situated as to be injurious or dangerous to health;

Overcrowded
houses.

- (h) Any house or part of a house so overcrowded as to be injurious or dangerous to the health of the inmates or in which insufficient airspace is allowed for each inmate to comply with the Regulations;

Defective
drainage or
ventilation
or over-
crowding in
schools and
factories.

- (i) Any school house, public or private, factory, shop or other building, which is not in a cleanly state or free from effluvia arising from any drain, privy, water or earth closet, urinal or other nuisance; or is not ventilated in such a manner as to render harmless so far as practicable any gases, vapours, dust or other impurities generated therein which are injurious or dangerous to health, or is so overcrowded as to be injurious or dangerous to the health of those employed or being therein;

Smoke from
furnaces.

- (j) Any fireplace or furnace the fires of which do not, so far as practicable, consume the smoke arising from the combustible matter used therein for working engines, or used in any mill, factory, dye-house, brewery, bakehouse or gas works, or in any manufacturing or trade process whatever;

From chim-
neys.

- (k) Any chimney emitting smoke in such quantity as to be injurious or dangerous to health;

Offensive or
dangerous
burying
grounds.

- (l) Any burial ground, cemetery or other place of sepulture so located or so crowded or otherwise so arranged or managed as to be offensive or injurious or dangerous to health. 2 Geo. V. c. 58, s. 74.

Inspection of
municipality.

75. Every medical officer of health shall see that the municipality or locality for which he is appointed is regularly inspected in order to prevent nuisances or to abate any existing nuisance. 2 Geo. V. c. 58, s. 75.

76. The medical officer of health or the sanitary inspector of a municipality or a member of a local board may, in the day time, as often as he thinks necessary, enter into and upon and examine any premises, and if upon such examination he finds that the premises are in a filthy or unclean state, or that any matter or thing is there which, in his opinion, may endanger the public health, he may order the owner or occupant of the premises to cleanse the same and to remove or destroy what is so found therein. 2 Geo. V. c. 58, s. 76.

Examination of premises and order for cleansing.

77. Where the owner of any premises wherein a nuisance exists is unknown or does not reside in the municipality, and the premises are unoccupied or the occupant is unable to remove the nuisance, the medical officer of health or the local board may, without previous notice, immediately cause the nuisance to be abated. 2 Geo. V. c. 58, s. 77.

Where owner unknown or non-resident.

78. Where under the provisions of this Act, or of the Regulations, or of any municipal by-law, a local board or any medical officer of health or sanitary inspector removes anything which is likely to be injurious to or to become or cause or is a nuisance, such thing shall be subject to the disposition of the local board, or, if the officer is acting under a by-law of a municipal council, shall be subject to the disposition of the council, and the owner of such thing shall have no claim in respect thereof. 2 Geo. V. c. 58, s. 78.

Disposition of articles removed.

Owner to have no claims.

79.—(1) Wherever the local board of health or medical officer of health is satisfied of the existence of a nuisance, the medical officer of health shall serve a notice on the person by whose act, default or sufferance the nuisance arises or continues, or, if such person cannot be found, on the owner or occupier of the premises on which the nuisance exists or from which the same arises, requiring him to abate the same within a time to be specified in the notice, and to execute such works and do such things as may be necessary for that purpose.

Service of Notice requiring abatement of nuisance.

(2) Where the nuisance arises from the want or the defective construction of any structural convenience, or where there is no occupier of the premises, notice shall be served on the owner.

Service on owner when required.

(3) Where the person causing the nuisance cannot be found, and it is clear that the nuisance does not arise or continue by the act or default of the owner or occupier of the premises, and it is therefore improper that such owner or occupier should be required to abate it, the local board shall abate the nuisance at the expense of the corporation of the municipality. 2 Geo. V. c. 58, s. 79.

Where owner and occupant not in fault.

80. Where a nuisance appears to be wholly or partially caused by some act or default committed or taking place without the municipality, the local board of the municipality

Where cause of nuisance out of municipality.

affected thereby shall cause an inspection to be made, and when necessary shall take or cause to be taken against the person by whose act or default the nuisance is caused in whole or in part any proceedings in relation to nuisances by this Act authorized with the same incidents and consequences as if such act or default were committed or took place wholly within its jurisdiction. 2 Geo. V. c. 58, s. 80.

Where consideration of difficulty involved.

81.—(1) If, on investigation by the local board, any nuisance is found to exist, and if after the board has required the removal or abatement of the same within a specified time, the board finds that default in removal or abatement has been made, and the case appears to the local board to involve the expenditure or loss of a considerable sum of money, or serious interference with any trade or industry, or other considerations of difficulty, the Provincial Board at the request of the local board may investigate and report upon the case.

Application to Judge of Supreme Court.

(2) If the report of the Provincial Board recommends the removal or abatement of the nuisance, the local board or any ratepayer residing in the municipality, or within a mile thereof, may apply to a Judge of the Supreme Court for an order for the removal or abatement of the nuisance, and to restrain the proprietors of any such industry from carrying on the same until the nuisance has been abated to the satisfaction of the Provincial Board; and the Judge may make such order upon the report of the Provincial Board or upon such further evidence as he may deem meet.

Application of Rev. Stat. c. 79.

(3) *The Judges' Orders Enforcement Act* shall apply to every order made by a Judge under this section. 2 Geo. V. c. 58, s. 81.

Expenses in Respect of Abatement of Nuisance.

Where owner or occupier neglects to abate.

82.—(1) Where the owner or occupier of any premises in which a nuisance exists fails, after due notice, to abate the same, the medical officer of health or sanitary inspector may enter upon the premises and take such steps as may be necessary to abate the nuisance.

Recovery of expenses.

(2) All reasonable costs and expenses incurred in abating a nuisance shall be deemed to be money paid for the use and at the request of the person by whose act, default or sufferance the nuisance was caused, but shall be recoverable from both the owner and the occupier for the time being of the premises.

Collection of expenses as taxes.

(3) If the costs and expenses incurred in abating the nuisance are not paid by the owner or occupier within one month after a demand of payment, a statement of the amount of the costs and expenses, and of the person by whom and the premises in respect of which the same are payable, shall be

delivered to the clerk of the municipality who shall insert the amount in the collector's roll, and the same may be collected in like manner as municipal taxes.

(4) The occupier for the time being of the premises may deduct any money recovered or collected from him which, as between him and the owner, the latter ought to pay, out of the rent then due or from time to time becoming due in respect of the premises. Occupier's right to deduct payment from rent.

(5) An occupier shall not be required to pay any further sum than the amount of rent for the time being due from him, or which, after demand of such costs or expenses, and after notice not to pay his landlord any rent without first deducting the amount of such costs or expenses, becomes payable by such occupier, unless he refuses truly to disclose the amount of his rent and the name and address of the person to whom it is payable; and the burden of proof that the sum demanded from such occupier is greater than the rent due by him at the time of such notice, or which has since accrued, shall be on such occupier. 2 Geo. V. c. 58, s. 82. Limit of amount recoverable from occupier.

When Application to Supreme Court Necessary.

83.—(1) No determination or order of the Provincial Board or of a local board for the removal or abatement of a nuisance shall be enforced except by order of a Judge of the Supreme Court where such removal or abatement involves the loss or destruction of property to the value of \$2,000 or upwards. Where application in respect of nuisance must be to Supreme Court.

(2) The order may be made upon the application of the Provincial Board or of the local board. 2 Geo. V. c. 58, s. 83. Application for order.

OFFENSIVE TRADES.

84.—(1) Any person who without the consent of the local board or of the municipal council establishes any of the following trades or businesses or manufactures— Restriction on establishment of offensive trades.

Blood boiling,
 Bone boiling,
 Refining coal oil,
 Extracting oil from fish,
 Storing hides,
 Soap boiling,
 Tallow melting,
 Tripe boiling,
 Slaughtering animals,
 Tanning hides or skins,
 Manufacturing gas,
 Manufacturing glue,
 Fertilizers from dead animals, from human or animal waste, or

Any other trade, business or manufacture, which is or may become offensive, or which is by the Regulations declared to be a noxious or offensive trade, business or manufacture

Penalty.

shall incur a penalty of not less than \$100 nor more than \$250, in respect of the establishment thereof, and a penalty of not less than \$20 for every day on which after notice in writing by the local board, or an officer thereof, to desist, such business, trade or manufacture is carried on, whether there has or has not been any conviction in respect of the establishment thereof. 2 Geo. V. c. 58, s. 84.

Storing rags, bones, etc.

85. Any person who keeps or stores any rags, bones, junk, bottles, scrap iron or other metals, or other refuse within any municipality, except on premises approved of by the medical officer of health, shall incur a penalty of not less than \$10 nor more than \$50, and the continuance of the offence for each week after conviction shall be considered a separate offence. 2 Geo. V. c. 58, s. 85.

Penalty.

INSPECTION OF LODGING HOUSES, LAUNDRIES, ETC.

Medical Officer of Health may enter and examine lodging houses, tenements and laundries.

86.—(1) The medical officer of health or any sanitary inspector acting under his instructions may, at any time of the day or night, as often as he thinks necessary, enter into a lodging house, tenement where rooms are rented, or a laundry where the owner or employees reside upon the premises, or other building where he has reason to suspect that the same are overcrowded or occupied by more persons than is reasonably safe for the health of the occupants.

When found overcrowded or unsanitary.

(2) If upon such examination it is found that the premises are occupied by more persons than is reasonably safe for the health of the occupants, and that the sleeping rooms are such that 600 cubic feet of air space cannot be provided for each occupant, or that the rooms or premises occupied by them are in a filthy or unclean state, or that any matter or thing is there which, in the opinion of the medical officer of health, founded on his own inspection or on the report of the sanitary inspector, may endanger the public health or the health of the occupants, the medical officer of health may order the owner or occupant to remove the inmates from the premises, or to remove that which causes the premises to be filthy or unclean, and put the rooms in a condition fit for human habitation. 2 Geo. V. c. 58, s. 86; 3-4 Geo. V. c. 55, s. 2.

Placarding premises.

87. Where, in the opinion of the medical officer of health, any premises are so situated, so constructed or so improperly lighted, or in any other respect of such a character or in such a condition as to be unfit for human habitation or dangerous to health, he may cause such premises to be closed, and may affix a notice thereon in a prominent place

setting forth the reason for such closing, and that the premises are closed by order of the medical officer of health; and no person shall pull down or deface such notice or use the premises closed as a dwelling or cause the same to be so used. 2 Geo. V. c. 58, s. 87.

INSPECTION OF DAIRIES, CHEESE FACTORIES, DAIRY FARMS, ETC.

88. The medical officer of health may make or cause to be made by a veterinary surgeon or other competent person a periodical inspection of all dairies, cheese factories, and creameries, dairy farms and slaughter-houses, and if upon such examination he finds that the premises are in a filthy or unclean state, or that any matter or thing is there which, in his opinion, may be injurious to or endanger the public health, he may order the owner or occupant of the premises to cleanse the same or to remove any such matter or thing. 2 Geo. V. c. 58, s. 88.

Inspection of dairies, etc., and slaughter-houses.
Power to order cleansing.

INSTALLATION OF PUBLIC WATER SUPPLY.

89.—(1) Whenever the council of any municipality or any municipal board or commission or any company or person contemplates the establishment of, or the extension of, or any change in an existing waterworks system, they shall submit the plans, specifications and an engineer's report of the water supply and the works to be undertaken, together with such other information as may be deemed necessary to the Provincial Board, and no such works shall be undertaken or proceeded with until the source of supply and the proposed works have been approved by the Board.

Plans to be submitted to Provincial Board.

(2) The Board upon the application for such approval may direct such changes to be made in the source of supply or in the plans submitted as it may deem necessary in the public interest 2 Geo. V. c. 58, s. 89.

Board may direct change in plans.

90. The Provincial Board shall have the general supervision of all springs, wells, ponds, lakes, streams or rivers used as a source for a public water supply with reference to their purity, together with the waters feeding the same, and shall examine the same from time to time when the necessity for such examination arises, and inquire what, if any, pollution exists and the causes thereof. 2 Geo. V. c. 58, s. 90.

Provincial Board to have supervision of streams, etc.

91.—(1) No garbage, excreta, manure, vegetable or animal matter or filth shall be discharged into or be deposited in any of the lakes, rivers, streams or other waters in Ontario or on the shores or banks thereof.

Depositing filth, etc., in Provincial waters.

(2) The owners and officers of boats and other vessels plying upon any such lake, river, stream or other water shall so dispose of the garbage, excreta, manure, vegetable

Disposal of offensive matter on boats.

or animal matter or filth upon such boats or vessels as not to create a nuisance or enter or pollute such lake, river, stream or other water.

Residents of
summer
resorts.

(3) Residents of a health resort or summer resort shall so dispose of garbage, excreta, manure, vegetable or animal matter or filth as not to create a nuisance or permit of its gaining entrance to or polluting any such lake, river, stream or other water.

Penalty.

(4) Any person who contravenes any of the provisions of this section shall incur a penalty not exceeding \$100. 2 Geo. V. c. 58, s. 91.

Returns
from water-
works.

92. Water boards, water companies, water commissioners and the proper officers of any municipal corporation making use as a source of water supply of any well or any other source within or partly within Ontario, and distributing the waters thereof for public, domestic or general uses, shall, from time to time, and whenever required by the Provincial Board, make returns to the Board upon forms to be furnished by it of such matters as may be required by the Board and called for by such forms, and any such water board, water company, water commissioner or officer who shall, for the space of thirty days after being furnished with such forms, fail or neglect to make any such reports required shall incur a penalty of \$100. 2 Geo. V. c. 58, s. 92.

Polluting
water supply.

93.—(1) No sewage, drainage, domestic or factory refuse, excremental or other polluting matter of any kind, which, either by itself or in connection with other matter, corrupts or impairs or may corrupt or impair the quality of the water of any source of public water supply for domestic use in any municipality, or which renders or may render such water injurious to health, shall be placed in or discharged into the waters, or placed or deposited upon the ice of any such source of water supply, or be placed or suffered to remain upon the bank or shore of any such source of water supply near the place from which the supply of water for domestic use is obtained, nor within such distance thereof as may be considered unsafe by the Provincial Board, after an examination thereof by a member or officer of the Board.

Penalty.

(2) Every person who contravenes any of the provisions of subsection 1 shall incur a penalty of not more than \$100 for each offence, and each week's continuance after notice by the Provincial Board or local board to discontinue the offence shall constitute a separate offence. 2 Geo. V. c. 58, s. 93.

SEWERAGE SYSTEM AND SEWAGE.

Sewerage
system.
Plans to be
submitted.

94.—(1) Whenever the construction of a common sewer or of a system of sewerage, or an extension of the same, is

contemplated by the council of any municipality, the council shall first submit the plans and specifications of the work together with such other information as may be deemed necessary by the Provincial Board, for its approval.

(2) The Board shall inquire into and report upon such sewer or system of sewerage, as to whether the same is calculated to meet the sanitary requirements of the inhabitants of the municipality, and as to whether such sewer or system of sewerage is likely to prove prejudicial to the health of the inhabitants of the municipality or of any other municipality liable to be affected thereby. Board to inquire and report.

(3) The Board may make any suggestion or amendment of the plans and specifications or may impose any condition with regard to the construction of such sewer or system of sewerage or the disposal of sewage therefrom as may be deemed necessary or advisable in the public interest. Amendment of plans at instance of Board.

(4) The construction of any common sewer or system of sewerage shall not be proceeded with until reported upon and approved by the Board, and no change in the construction thereof or in the disposal of sewage therefrom shall be made without the previous approval of the Board. Work not to be proceeded with until approved by Board.

(5) The Board may from time to time modify or alter the terms and conditions as to the disposal of sewage imposed by it, and the report or decision of the Board shall be final, and it shall be the duty of the municipal corporation and the officers thereof to give effect thereto. Modification, etc., of order.

(6) Whenever required by the Board, the clerk of every municipal corporation having, using, owning, leasing or controlling a sewerage system or sewage disposal plant shall make returns to the Board upon forms to be furnished by it of such matters as may be required by the Board and called for by such forms, and in case of default the clerk shall incur a penalty of \$100. 2 Geo. V. c. 58, s. 94. Annual report to be sent to Provincial Board.

BY-LAWS FOR BORROWING FOR WATERWORKS AND SEWERAGE.

95.—(1) No by-law shall be passed for raising money for any of the purposes mentioned in sections 89 and 94 until the proposed water supply or sewerage system, as the case may be, has been approved by the Provincial Board of Health, and such approval has been certified under the hand of the chairman and secretary of the Board. By-law for issue of debentures not to be passed until approval of Board.

(2) The by-law shall recite the approval of the Board. By-law to recite approval.
2 Geo. V. c. 58, s. 95.

96.—(1) Where the Provincial Board reports in writing that it is of opinion that it is necessary in the interest of the public health that a waterworks system or an adequate water purification plant, or a sewer or a sewerage system, or an Assent of electors not required.

adequate sewage treatment plant should be established or continued, or that any existing waterworks system, water purification plant, sewer or sewerage system, or sewage treatment plant should be improved, extended, enlarged, altered, renewed or replaced, it shall not be necessary to obtain the assent of the electors to any by-law for incurring a debt for any of such purposes.

Council on report of Provincial Board to pass by-laws and carry out works.

(2) Where the Provincial Board has reported as provided by subsection 1, the council of a municipality shall forthwith pass all necessary by-laws for the establishment of the works reported upon and the corporation of the municipality shall immediately commence the work and carry the same to completion without unnecessary delay. 3-4 Geo. V. c. 55, s. 3.

By-law not to be passed until approved.

(3) The by-law shall not be finally passed until the approval of the Board has been obtained to the work to be done as hereinbefore provided, and shall recite such approval. 2 Geo. V. c. 58, s. 96 (2).

Repairs and renewals, etc., powers of Provincial Board.

97. Every waterworks system, water purification plant, sewer or sewerage system and sewage treatment plant established for public use shall at all times be maintained and kept in repair as may be necessary for the protection of the public health and as may be directed by any special order of the Provincial Board or by the Regulations. 3-4 Geo. V. c. 55, s. 4, *part*.

Penalty.

98. Any municipal corporation or body or person refusing or neglecting to carry out the provisions of either of the two next preceding sections, after notice from the Provincial Board so to do, shall incur a penalty of \$100 for every day upon which such default continues. 3-4 Geo. V. c. 55, s. 4, *part*.

ICE SUPPLIES.

Regulation of ice supply by local board.

99.—(1) The local board of a municipality in which supplies of ice are obtained, sold and stored may adopt such regulations regarding the source of supply and the place of storage of the same as are, in its opinion, best adapted to secure the purity of the ice and prevent injury to the public health, and for the supervision of ice supplies, whether obtained within or without the municipality, whenever the ice is intended for use within the municipality in which the board has jurisdiction.

Permit for cutting ice.

(2) No ice shall be cut from any lake, river, stream, pond, or other water for the purpose of being sold, or used for domestic purposes unless a permit therefor has been first obtained from the local board, and no person shall sell or deliver or dispose of in any way any ice for domestic purposes without first obtaining a permit therefor from the local board, and the local board may refuse a permit, or

revoke any granted by it, when in their judgment the use of any ice cut or sold or to be cut or sold for domestic purposes under the same is or would be detrimental to the public health.

(3) Every local board shall enforce the Regulations of the Provincial Board, and may prohibit the sale and use of any ice within the limits of the municipality, when, in its judgment, the same is unfit for use or the use of it would be detrimental to the public health. Local board to enforce regulations.

(4) The local board may prohibit, and, through its officers, prevent the bringing of any such ice for the purpose of sale or use for domestic purposes into the limits of the municipality, and may in the same manner prevent the sale of any such ice for domestic purposes within the limits of the municipality, when, in its judgment, the ice is unfit for use, or the use of it would be detrimental to the public health. Prohibiting distribution in municipality.
2 Geo. V. c. 58, s. 98.

INSPECTION OF ANIMALS, MEAT, ETC.

100.—(1) A medical officer of health or sanitary inspector may at all reasonable times inspect or examine any animal, carcass, meat, poultry,, game, flesh, fish, fruit, vegetables, grain, bread, flour, milk or other article exposed for sale or deposited in any place for the purpose of sale, or for preparation for sale, and intended for food for man; and if such article appears to him to be diseased, or unsound or unwholesome, or unfit for food for man, he may seize and carry away the same, or cause it to be seized and carried away, in order that it may be destroyed or so disposed of as to prevent it from being exposed for sale or used as food for man. Inspection of food supplies.

(2) The person to whom the same belongs, or did belong at the time of exposure for sale, or in whose possession or on whose premises the same was found, shall incur a penalty of not less than \$10 nor more than \$100 for every such article unless he proves that he did not know and had no means of knowing the condition of such article. Penalty.

(3) Where it is charged upon any prosecution under this section that any animal, or the meat or milk of any animal, is affected with any disease named in section 2 of *The Animal Contagious Diseases Act of Canada*, or with wens, clyers, actinomyces or osteosarcoma, or any disease of a cancerous nature, the medical officer of health may make, or cause to be made, or request the Provincial Board to make, such scientific examination of the animal, meat or milk suspected of being diseased as may enable it to be determined whether or not such disease exists; and the Minister may instruct the Chief Officer of Health to make such examination or cause the same to be made. Scientific examination where existence of certain diseases charged. R.S.C., 1906, c. 75.

Expenses
and fee on
examination.

(4) The expenses of such examination, together with a fee not exceeding \$10, shall be certified by the Chief Officer of Health, and shall be payable by the treasurer of the municipality in which such animal, meat or milk is found.

Onus of
proof.

(5) In any prosecution under this section the burden of proof that any article in respect of which the charge is laid is not kept for sale or intended for food for man shall be upon the person charged. 2 Geo. V. c. 58, s. 99.

Feeding cer-
tain things
to hogs.

101.—(1) Whenever any medical officer of health or sanitary inspector knows or has reason to believe that blood, offal or the meat of any dead animal which has not been previously boiled or steamed when fresh or before becoming putrid or decomposed, or which, although boiled or steamed, is putrid or decomposed, has been or is being fed to hogs, he may seize and carry away the hogs, whether dead or alive, or otherwise detain them so as to prevent their removal.

Penalty.

(2) The owner, or person in charge of, or any person found feeding any such blood, offal or meat to hogs shall incur a penalty of not less than \$5 nor more than \$50, and upon his conviction the medical officer of health shall order the hogs, whether dead or alive, to be destroyed or so disposed of as to prevent them from being exposed for sale or used for food for man.

Onus of
proof.

(3) In every prosecution under this section, where it is proved that such blood, offal or decomposed meat was found upon the premises, the burden of proof that the same was not intended to be fed to hogs shall be upon the person charged. 2 Geo. V. c. 58, s. 100.

Inspection
of slaughter
houses.

102.—(1) Every butcher and other person selling meat shall on the request of the medical officer of health make affidavit as to the place at which the slaughter of his meat is carried on, and where it is without the limits of the municipality such place shall be open to inspection by the medical officer of health or by an inspector appointed by the council of the municipality in which the meat is offered for sale.

Notice to
discontinue
sale.

(2) In case of the refusal or neglect to make such affidavit or permit such inspection, the local board may give notice in writing to the butcher or other person to discontinue the sale of meat in the municipality.

Penalty.

(3) If after receiving such notice the butcher or other person sells or offers for sale any meat in the municipality he shall incur a penalty not exceeding \$20. 2 Geo. V. c. 58, s. 101.

Killing or
selling calves
under four
weeks old.

103.—(1) Any person who knowingly sells, or has in his possession with intent to sell as food for man, the meat of any calf less than four weeks old shall incur a penalty of not less than \$10 nor more than \$50.

(2) In every prosecution under this section, where it is proved that the meat of any calf less than four weeks old was found upon the premises, the burden of proof that the same was not intended as food for man shall be upon the person charged. 2 Geo. V. c. 58, s. 102.

Burden of proof.

MUNICIPAL SLAUGHTER HOUSES, ABATTOIRS, ETC.

104.—(1) The municipal council of a city or town may by by-law provide for the establishment, within the municipality, or in an adjoining municipality, the council of which has by by-law sanctioned its establishment therein, of a public slaughter-house or abattoir with proper cattle-yards and pens in connection therewith for the proper keeping therein of animals intended for slaughter, and for charging fees for the use thereof.

By-laws for establishing slaughter-houses, cattle-yards or pens.

(2) Every such slaughter-house or abattoir, and cattle-yard and pen, shall be constructed, equipped and regulated in conformity with the Regulations. 2 Geo. V. c. 58, s. 103.

Regulation of slaughter houses, etc.

105.—The local board of the city or town by which the slaughter-house or abattoir, cattle-yards or pens are established shall have the supervision of them, and shall be responsible for the due carrying out of the Regulations, and the costs of the supervision and inspection shall be paid from time to time by the treasurer of the city or town out of the fees charged, on the order of the local board of health. 2 Geo. V. c. 58, s. 104.

Local board of health to have control.

106. Such local board may employ one or more persons, approved of by the medical officer of health, to inspect at such slaughter-house or abattoir, or at such cattle-yards or pens, all animals, carcasses and meat brought into the municipality and intended for food for man. 2 Geo. V. c. 58, s. 105.

Competent persons employed for inspecting animals and meat.

107. Any meat-packing establishment shall be subject to inspection in the same manner as a municipal slaughter-house or abattoir. 2 Geo. V. c. 58, s. 106.

Inspection of meat-packing establishments.

USE OF FORCE—ASSISTANCE BY CONSTABLES, ETC.

108. Any person who obstructs, hinders, or delays or prevents the Provincial Board or Chief Officer of Health or other officer of the Board, or any local board, or a member thereof, medical officer of health or sanitary inspector, or any person employed by or acting under the direction of any of them in the exercise of any of the powers conferred, or performance of any of the duties imposed upon them by this Act or by the Regulations, or in carrying out any order lawfully given by them, shall incur a penalty of not less than \$25 nor more than \$100. 2 Geo. V. c. 58, s. 107.

Penalty for hindering officers from inspecting meat, etc.

Calling for
assistance of
constables,
etc.

109. Whenever a local board or a member thereof, medical officer of health or sanitary inspector is required or empowered by this or any other Act or by the Regulations or by a municipal by-law to do or to prevent or to direct or enforce the doing of anything, such board or member or officer or inspector may use such force and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any constable or other person, and it shall be the duty of every constable so called upon to render such assistance. 2 Geo. V. c. 58, s. 108.

PENALTIES AND RECOVERY THEREOF.

Penalties.
Communi-
cable
diseases.

110.—(1) Any person who contravenes any of the provisions of sections 53 to 72 for which no other penalty is provided shall incur a penalty of not less than \$25 nor more than \$100.

Other
offences.

(2) Any person who contravenes any other provision of this Act or of the Regulations or of any municipal by-law passed under this Act, or wilfully disobeys or neglects to carry out any order or direction lawfully given by the Provincial Board, a local board, member of a local board, medical officer of health or sanitary inspector unless it is otherwise provided shall incur a penalty of not less than \$5 nor more than \$20.

Continuance
of offence.

(3) Where any person has been convicted of an offence under this Act or under any Regulation or by-law enacted or in force thereunder, and such offence is in the nature of an omission or neglect, or is in respect of the existence of a nuisance, or other unsanitary condition, which it is such person's duty to remove, or of the erection or construction of anything contrary to the provisions of this Act, or of any Regulation or by-law enacted or in force thereunder, then, if the proper authority in that behalf gives reasonable notice to such person to make good such omission or neglect, or to remove such nuisance or unsanitary condition, or to remove the thing which has been erected or constructed contrary to this Act or to such Regulation or by-law, and default is made in respect thereof, the person offending may be convicted for such default, and shall be liable to the same punishment as was or might have been imposed for the original offence, and so on, from time to time, as often as after another conviction a new notice is given and the default continues; and in case of a third or subsequent conviction, it shall not be necessary in the information, conviction or other proceedings to make any reference to any conviction except the first, or to any notice except that in respect of which the proceedings are then being taken. 2 Geo. V. c. 58, s. 109.

Recovery of
penalties.
Rev. Stat. c. 90.

111. Penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convic-*

tions Act before a police magistrate or two justices of the peace. 2 Geo. V. c. 58, s. 110.

112.—(1) Every penalty recovered under this Act where the prosecution is by or at the instance of the corporation of a municipality, or the local board, or the medical officer of health or other health officers of the municipality shall be paid to the treasurer of the municipality in which the offence was committed for the use of the local board of health. Application of penalties.

(2) Where the prosecution is at the instance of the Provincial Board or of any Provincial officer or where the offence was committed in territory without municipal organization the penalty shall be paid to the Treasurer of Ontario. Offences in unorganized territory. 2 Geo. V. c. 58, s. 111.

113. Where any act or omission is a violation of any express provision of this Act and is also a violation of a by-law of a municipality in respect of a matter over which the council of the municipality has jurisdiction, a conviction may be had under either the Act or the by-law, but a conviction shall not be made under both for the same act or omission. Where offence is against Act and by-law. 2 Geo. V. c. 58, s. 112.

ALL PROCEEDINGS BARRED BY POVERTY, ETC.

114. Where any person who is unable from poverty or other sufficient cause to comply with any of the provisions of this Act, or of the Regulations, gives notice of such inability to the medical officer of health, and the local board on examination is satisfied of such inability, the secretary thereof shall give his certificate to that effect, and such certificate shall be a bar to all proceedings against such person for a period of six months. Certificate of poverty or inability a bar to prosecution. 2 Geo. V. c. 58, s. 113.

STATUTORY BY-LAW.

115.—(1) The by-law set out in Schedule B, hereinafter called the statutory by-law, and every amendment thereof, shall be in force in every municipality as if enacted by the council thereof, and the council of every municipality shall have authority to pass by-laws with the approval of the Provincial Board for making additional requirements in respect to any of the matters dealt with by the statutory by-law. Application of enactments in Schedule "B."

(2) The Board may permit the council of any municipality to amend the statutory by-law so as to conform to the requirements of the municipality or to meet such special circumstances as in the opinion of the Board may warrant such amendment. Amendment of by-law. 2 Geo. V. c. 58, s. 114.

POSTPONEMENT OF MUNICIPAL AND SCHOOL ELECTIONS.

116.—(1) Where the Provincial Board reports to the Lieutenant-Governor that on account of the prevalence in Postponement of election in case of epidemics.

any municipality of any communicable disease it would be dangerous to hold an election in such municipality, the Lieutenant-Governor in Council may, of his own motion, or upon the application of the council of the municipality, issue his proclamation postponing the holding of any intended municipal or school election for a period not exceeding three months, and may from time to time further postpone such election if, in the opinion of the Board, the necessity for postponement continues.

Fixing date
for holding
postponed
election.

(2) The Lieutenant-Governor may, by the proclamation, name the days for holding the nomination and polling, but, if no days are named therefor, the council shall as soon as practicable after the period named in such proclamation, or the last of such proclamations, expires, by by-law name the days for the nomination and polling. 2 Geo. V. c. 58, s. 115.

UNORGANIZED TERRITORY.

Application
of sections
117 to 122.

117. Sections 118 to 124 shall apply only to territory without municipal organization. 2 Geo. V. c. 58, s. 116.

Regulations.

118.—(1) The Provincial Board of Health may, with the approval of the Lieutenant-Governor in Council, make Regulations:

- (a) Respecting any industry and the conditions under which the same may be carried on for the purpose of preventing nuisances and the outbreak or spread of disease;
- (b) For the cleansing, regulating and inspection of lumbering camps and of mining camps and railway construction works and of other places where labour is employed;
- (c) For providing for the inspection of houses and premises;
- (d) For providing for the employment of duly qualified medical practitioners by employers of labour in lumbering camps and in mining camps and on railway construction works and other works where labour is employed, and for the erection of permanent or temporary hospitals for the accommodation of persons so employed.

General or
local or
special.

(2) The Regulations may be general in their application or may be made applicable specially to any particular locality or industry.

Expenses.

(3) The expenses of carrying out the Regulations shall be paid to the person entitled thereto by the persons, firms or corporations whose duty it may be to carry out such regulations, and the amount so to be paid shall be apportioned by

the Minister among them as he may deem proper, and every amount so apportioned shall be deemed to be a debt due from the person, firm or corporation, and may be recovered by the person entitled thereto by action in any court of competent jurisdiction.

(4) If default is made in complying with any of the Regulations the Board may direct that what is omitted to be done shall be done at the expense of the person, firm or corporation in default, and if the default is the failure to employ a duly qualified medical practitioner, as provided by clause (d) of subsection 1, the employing person, firm or corporation shall be liable to pay the reasonable expenses incurred by any employee for medical attendance and medicines, and for his maintenance during his illness. 2 Geo. V. c. 58, s. 117. Procedure on default of compliance

119. Every police magistrate shall be *ex officio* a medical officer of health in and for the district or part of a district for which he is appointed. 2 Geo. V. c. 58, s. 118. Police magistrates to be *ex officio* health officers.

120. Every constable shall be *ex officio* a sanitary inspector for the locality for which he is appointed. 2 Geo. V. c. 58, s. 119. Constables to be *ex officio* sanitary inspectors.

121. The Superintendent of the Algonquin Park shall be *ex officio* a medical officer of health for the Park, and for the territory surrounding it for the distance of one mile therefrom or from any part thereof; and all the park rangers, whether employed temporarily or otherwise, shall be *ex officio* sanitary inspectors under this Act for the Park and such territory. 2 Geo. V. c. 58, s. 120. Superintendent and officers in Algonquin Park.

122. The Lieutenant-Governor in Council may appoint medical officers of health; and every such officer shall within the locality for which he is appointed have all the powers and perform all the duties by this Act, or any other Act, conferred or imposed upon medical officers of health, or local boards of health, and shall also perform such other duties as the Lieutenant-Governor in Council may direct. 2 Geo. V. c. 58, s. 121. Local officers of health specially appointed.

123. The Provincial Board may also, with the approval of the Lieutenant-Governor in Council, appoint in any of the unorganized districts one or more sanitary inspectors, who shall possess, in addition to the powers conferred upon sanitary inspectors by this Act, all the powers conferred upon local boards of health by section 27. 2 Geo. V. c. 58, s. 122. Sanitary inspectors.

124. The medical officer of health and the sanitary inspectors shall be paid such salary or other remuneration as may be determined by the Lieutenant-Governor in Council out of the appropriation made by the Legislature for the purposes of the Provincial Board. 2 Geo. V. c. 58, s. 123. In unorganized territory.

EXPENSES OF ENFORCEMENT OF ACT.

Expenses to be payable in first instance by Province.

125.—(1) The expenses incurred by the Provincial Board in the enforcement of this or any other Act or of the Regulations shall be payable in the first instance by the Treasurer of Ontario out of any money appropriated by this Legislature for the expenses of the Board, and in such manner and upon such certificate and after such audit as the Regulations may prescribe, anything in *The Audit Act* or any other Act to the contrary notwithstanding.

Rev. Stat. c. 23.

Payment on certificate of proper officer.

(2) Whenever an account is certified by the officer designated in the Regulations to be properly payable out of such appropriation, such certificate shall be final and the Provincial Auditor shall thereupon direct the issue of a cheque in payment of the account. 2 Geo. V. c. 58, s. 124.

PROCEEDINGS NOT TO BE QUASHED FOR WANT OF FORM, OR
REMOVED INTO SUPREME COURT.

Proceedings not to be quashed for want of form or removed into Supreme Court.

126. No order or other proceeding, matter or thing, done or transacted in or relating to the execution of this Act shall be vacated, quashed or set aside for want of form, or be removed or removable by *certiorari* or otherwise into the Supreme Court. 2 Geo. V. c. 58, s. 125.

Existing regulations continued.

127. Except in so far as they are inconsistent with this Act all existing Regulations made under any of the Acts repealed by *The Public Health Act*, being chapter 58 of the Acts passed in the second year of His Majesty's reign, or under that Act are confirmed and declared to be legal, valid and binding and shall continue in force until altered or repealed by the Provincial Board with the approval of the Lieutenant-Governor in Council. 2 Geo. V. c. 58, s. 126.

SCHEDULE "A."

(Section 50 (2).)

PUBLIC HEALTH.

Take notice that by virtue of *The Public Health Act*, and the regulations made thereunder, possession has been taken (or obtained, as the case may be) of the following lands (or building, as the case may be) namely,

(Reasonable Description.)

and further take notice that such land (or building) will be occupied and used for the purposes of the said Act or regulations from and after the date hereof for a period of _____ or such other time as may in the discretion of the undersigned be necessary.

Dated, etc.

(Signature.)

SCHEDULE "B."

(Section 115.)

BY-LAW IN FORCE IN EVERY MUNICIPALITY UNTIL ALTERED BY
THE MUNICIPAL COUNCIL.

1. It shall be the duty of the Medical Officer of Health to assist and advise the Local Board of Health and its officers in matters relating to public health and to superintend, under the direction of the Board, the enforcement and observance, within this municipality, of health by-laws or regulations, and of Public Health Acts, and of any other sanitary laws, and to perform such other duties and lawful acts for the preservation of the public health as may, in his opinion, be necessary, or as may be required by the Local Board of Health. He shall also present to the Board, before the 15th day of November in each year, a full report upon the sanitary condition of the municipality. Duty of medical health officer.
2. The sanitary inspector, besides performing the duties imposed by this by-law, shall assist the medical officer of health and perform such other duties as may from time to time be assigned to him by the Local Board of Health or its chairman. Duty of Sanitary Inspector.
3. The chairman of the Local Board of Health shall, before the 1st day of December in each year, present to this Council a report containing a detailed statement of the work of the Board during the year, and the report of the sanitary condition of the municipality, as rendered to the Board by the Medical Officer of Health. A copy of each such report shall be transmitted by the secretary to the Provincial Board of Health. Chairman of Board of Health to report to Council.
4. No person shall within the municipality suffer the accumulation upon his premises, or deposit, or permit the deposit, upon any land belonging to him, of anything which may endanger the public health, or deposit upon, on, or into, any street, square, lane, by-way, wharf, dock, slip, lake, pond, bank, harbour, river, stream, sewer, or water, any manure or other refuse, or vegetable or animal matter, or other filth. Deposits endangering public health forbidden.
5. It shall be the duty of the sanitary inspector to keep a vigilant supervision over all streets, lanes, by-ways, lots, or premises upon which any such accumulation may be found, and at once to notify the persons who own or occupy such lots or premises, or who either personally or through their employees have deposited such manure, refuse, matter, or filth, in any street, lane, or by-way, to cleanse the same, and to remove what is found thereon; such persons shall forthwith remove the same, and if the same be not removed within twenty-four hours after such notification the inspector may prosecute the persons so offending, and he may also cause the same to be removed at the expense of the person or persons so offending. He shall also inspect at intervals, as directed by the Local Board of Health, all premises occupied by persons residing within the municipality, and shall report to the Board every violation of any of the provisions of this by-law, or of any other regulation for the preservation of the public health, and shall also report every case of refusal to permit him to make such inspection. Duty of Sanitary Inspector as to lands, etc.
6. Whenever it shall appear to the Local Board, or to any of its officers, that it is necessary for the preservation of the public health, or for the abatement of anything dangerous or injurious to the public health, or whenever a notice signed by one or more inhabitant householders of this municipality is received Examination of buildings or premises by Sanitary Inspectors.

stating the condition of any building in the municipality to be so filthy as to be dangerous to the public health, or that upon any premises in the municipality there is any foul or offensive ditch, gutter, drain, privy, cess-pool, ash-pit, or cellar, kept or constructed so as to be dangerous or injurious to the public health or that upon any such premises an accumulation of dung, manure, offal, filth, refuse, stagnant water, or other matter or thing is kept so as to be dangerous or injurious to the public health, it shall be the duty of the sanitary inspector to enter such building or premises for the purpose of examining the same, and, if necessary, he shall order the removal of such matter or thing. If the occupant or owner or his lawful agent or representative having charge or control of such building or premises, after having had twenty-four hours' notice from any such officer to remove or abate such matter or thing, shall neglect or refuse to remove or abate the same, he shall be subject to the penalties mentioned in section 33.

Notice to
put premises
in proper
sanitary
condition
or to quit
same.

7. If the Local Board is satisfied upon due examination that a cellar, room, tenement, or building within the municipality, occupied as a dwelling-place, has become by reason of the number of occupants, want of cleanliness, the existence therein of a communicable disease, or other cause, unfit for such purpose, or that it has become a nuisance, or in any way dangerous or injurious to the health of the occupants, or of the public, the Board may give notice in writing to such occupants, or any of them, requiring the premises to be put in proper sanitary condition, or requiring the occupants to quit the premises within such time as the Board may deem reasonable. If the persons so notified, or any of them, neglect or refuse to comply with the terms of the notice, every person so offending shall be liable to the penalties mentioned in section 33, and the Board may cause the premises to be properly cleansed at the expense of the owners or occupants, or may remove the occupants forcibly and close up the premises, and the same shall not again be occupied as a dwelling-place until put into proper sanitary condition.

Distance of
slaughter-
house, etc.

8. No person shall at any time use any house, shop or outhouse as a slaughter-house or as a place for slaughtering animals or fowls therein, unless such shop, house or outhouse is distant not less than two hundred yards from any dwelling-house, and not less than seventy yards from any public street.

Inspection
of slaughter-
house.

9. All slaughter-houses within this municipality shall be subject to inspection under the direction of the Local Board of Health; and no person shall keep any slaughter-house unless the permission in writing of the Board for the keeping of such slaughter-house has been first obtained, and remains unrevoked. Such permission shall be granted, after approval of such premises upon inspection, subject to the condition that the slaughter-house shall be so kept as not to impair the health of persons residing in its vicinity, and upon such condition being broken the permission may be revoked by the Board; and all animals to be slaughtered, and all fresh meat exposed for sale in this municipality shall be subject to like inspection.

Inspection
of cow
byres, cheese
factories
and cream-
eries.

10. All milch cows, cow byres and dairies, and all places in which milk is sold or kept for general use, and all cheese-factories and creameries shall be subject to inspection under the direction of the Board; and the proprietors shall obtain permission in writing from the Board, to keep any such dairy or other place in which milk is so sold or kept, or to keep a cheese factory or creamery, and the same shall not be kept by any person without such permission, which shall be granted after approval of such premises upon inspection, subject to the

condition that all such places are so kept and conducted that the milk shall not contain any matter or thing liable to produce disease, either by reason of adulteration, contamination with sewage, absorption of disease germs, infection of cows, or any other cause, and upon such condition being broken the said permission may be revoked by the Board.

11. No person shall offer for sale within this municipality, ^{Sale of diseased food.} as food, any diseased animal, or any meat, fish, fruit, vegetables, milk, or other article of food which, by reason of disease, adulteration, impurity, or other cause is unfit for use.

12. It shall be the duty of the owner of every house within this municipality to provide for the occupants of the same a ^{Supply of drinking water.} sufficient supply of wholesome drinking water; and if any occupant of the house is not satisfied with the wholesomeness or sufficiency of such supply, he may apply to the Local Board of Health to determine as to the same; and if the supply is sufficient and wholesome, the expense incident to such determination shall be paid by such occupant; and if not, by the owner; and in either case such expense shall be recoverable in the same manner as municipal taxes.

13. All wells in this municipality which are in use, whether such wells are public or private, shall be cleaned out before the ^{Wells to be cleaned out, etc.} 1st day of July in each year, and if the Local Board of Health certifies that any well should be filled up, such well shall be forthwith filled up by the owner or occupant of the premises, and no well shall be used as a privy, privy vault or cess-pool.

14. No privy-vault, cess-pool or reservoir into which a privy, ^{Details of establishment of privy vaults, etc., to be approved by M. O. H.} water-closet, stable or sink is drained, shall be established until the approval in writing of the medical officer of health has been obtained.

15. The next preceding section shall not apply to earth privies ^{Time de-} or earth closets without a vault below the surface of the ground, ^{posits to be removed.} but sufficient dry earth, wood-ashes or coal ashes to absorb all the fluid parts of the deposit must be thrown upon the contents of such earth privies and closets daily, and the contents when removed must be placed in a shed or box with rain-proof cover, and removed from the premises at least once a year on or before the 1st day of May.

16. If the exigencies or circumstances of the municipality ^{Cleaning out and disinfecting privy vaults, etc.} require that privy-vaults, cess-pools or reservoirs shall be allowed in accordance with section 14, they shall be cleaned out at least once a year, on or before the 1st day of May, and from the 1st day of May to the 1st day of November in each year they shall be thoroughly disinfected by adding to the contents of the vault, cess-pool or reservoir, once a month, not less than two pounds of chloride of lime, dissolved in two pailfuls of water.

17. Within the limits of this municipality no night-soil or ^{Deodorization before removal.} contents of any cess-pool shall be removed, unless previously disinfected as provided by section 16, and during its transportation the material shall be covered with a layer of fresh earth, unless the removal is by some odourless excavating process.

18. All putrid and decaying animal or vegetable matter ^{Time for removal of decayed animal or vegetable matter.} must be removed from all cellars, buildings, out-buildings and yards on or before the 1st day of May in each year.

Time for
removal of
garbage.

19. Every householder and every hotel and restaurant-keeper or other person shall dispose of all garbage, for the disposal of which he is responsible, either by burning the same or by placing it in a proper covered receptacle, the contents of which shall be regularly removed, at least twice a week.

Hogs.

20. Swine shall not be kept within the limits of this municipality, except in pens, with floors kept free from standing water and regularly cleanse and disinfected, and distant at least one hundred feet from any dwelling house, school house or church.

Livery
stable.

21. The keeper of every livery or other stable shall keep his stable and stable-yard clean, and shall not permit more than two waggon-loads of manure to accumulate in or near the same at any one time, and shall at all times keep such manure in a proper covered receptacle.

House con-
struction.
Soil of
building
sites to be
disinfected.

22. No house shall be built upon any site, the soil of which has been made up of any refuse, unless such soil has been removed from such site, and the site disinfected, or unless the soil has been covered with a layer of charcoal or ashes, covered by a layer of concrete at least six inches thick and of such additional thickness as may be requisite under the circumstances to prevent the escape of gases into such proposed house.

Ventilation
of drains,
etc.

23. The drain of every house connected with a sewer or cess-pool shall be properly ventilated by means of a pipe extending upward from the highest point of the main soil or waste-pipe, and also by a pipe carried upward from the drain outside the walls of the house. Such pipes shall be of the same dimensions as the main soil or waste-pipe, and shall be constructed of the same material or of stout galvanized iron, and no trap shall intervene between the ventilating pipes. If a trap intervenes between the sewer or cess-pool and the ventilating pipes, then a four-inch ventilating pipe of such material shall be carried from a point between such trap and the sewer. Every ventilating pipe shall be carried above the roof of the house, and shall open above at points sufficiently remote from every window, door, sky-light, chimney or other opening leading into any house to prevent the escape into it of gases from such ventilating pipes.

24. No pipe from any drain or soil-pipe shall be connected with any chimney in a dwelling-house.

Description
of drain
pipes.

25. Every house-drain shall be constructed of vitrified earthenware or iron pipe; and every soil and waste-pipe of iron pipe shall be rendered impervious to gas or liquids, by the joints being run with lead and caulked, or constructed of lead pipe weighing at least six pounds to the square foot; and the waste-pipe from every closet, sink, tub, wash-basin or other service shall have as near as possible to the point of junction with such service a trap so constructed, vented and furnished, that it shall at no time allow of the passage of gas into the house. And all joints shall be so constructed as to prevent gas escaping through them.

Certain
closets
prohibited.

26. The construction of any closet or other convenience which allows of the escape from it or from the drain or soil-pipe into the house of air or gas is prohibited.

Pipes sup-
plying water
to closets.

27. No pipe supplying water to a water-closet or urinal shall be directly connected with a pipe supplying water for drinking purposes.

28. Every person who erects or causes to be erected any building shall, within two weeks after the completion thereof, deposit with the Local Board of Health plans of the drainage and plumbing of the same as executed; and in the case of any alteration of any such plumbing or drainage, it shall be the duty of the owner of the house, within two weeks of the making of the alteration, to deposit in the same manner a plan of any such alteration; if such alteration is made by an occupant it shall be his duty to deposit or cause to be deposited the plan.

Plumbing and drainage plans to be filed.

29. The Medical Officer of Health or the Secretary of the Local Board of Health shall provide each legally qualified medical practitioner, practising within this municipality, with blank forms on which he shall report cases of communicable disease to the Medical Officer of Health, Officer or Secretary, and, also, with other blank forms on which to report death or recovery from any such disease.

Rules respecting infectious and contagious diseases. Duties of M. O. H.

30. All such forms shall be so printed, gummed and folded that they may be readily sealed, without the use of any envelope, and shall call for the following information:

Forms, kind of.

Report of Communicable Disease.

Christian name and surname of patient:
Age of patient:
Locality (giving street, number of house or lot), where patient is:
Name of disease:
Name of school attended by children from that house:
Measures employed for isolation and disinfection:
(Signature of physician):
.....

Blank forms.

Report of Death or Recovery from Infectious Disease.

Christian name and surname of patient:
Locality (giving street, number of house or lot), where patient is:
Name of disease:
How long sick:
Whether dead or recovered:
Means of disinfection employed, and when employed:
(Signature of physician):
.....

31. The Medical Officer of Health within six hours after he has received notice of the existence in any house of any communicable disease in respect of which it is his duty to do so, shall affix or cause to be affixed, near the entrance of such house, a card at least nine inches wide and twelve inches long, stating that such disease exists in the house, and stating the penalty for removal of such card without the permission of the Medical Officer of Health, and no person shall remove such card without his permission.

Notice of disease to be posted up.

Not to be removed.

32. No animal suffering from any communicable disease shall be brought or kept within this municipality, except by permission of the Medical Officer of Health.

Animals affected.

33. Any person who violates sections 4, 6, 7, 9, or 11 of this by-law or section 22 or sections 31 or 32, shall for every offence, incur a penalty of not less than \$5 nor more than \$50; and any person who violates any other provision of this by-law shall for every offence incur a penalty of not more than \$20; and such penalties shall be recoverable under "The Ontario Summary Convictions Act."

Penalties.

CHAPTER 219.

An Act respecting Vaccination and Inoculation.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Vaccination Act*. 2 Geo. V. c. 59, s. 1.

Duty of trustees, etc., of hospitals, etc., to keep vaccine matter.

2. The trustees, governors, directors or other officers or persons having at any time the control and management of any hospital or dispensary receiving aid from the public funds of Ontario shall keep at all times in such hospital or dispensary an adequate supply of vaccine matter for,

For vaccination at hospital.

(a) The vaccination, by a legally qualified medical practitioner attached to such hospital or dispensary, at the expense of the same, of all poor persons, and at their own expense of all other persons, who attend at such hospital or dispensary for that purpose, during one day in every week; the fee to be charged for such vaccination not in any case to exceed fifty cents, and to be used and applied for the benefit of the hospital or dispensary;

For furnishing practitioners.

(b) Furnishing, on application, to every legally qualified medical practitioner, such reasonable quantities of vaccine matter as he from time to time requires;

For the use of the Indians.

(c) Furnishing, on application, to the Superintendent-General of Indian Affairs, or his assistant, or to any visiting Superintendent of Indian Affairs, such reasonable quantities of vaccine matter as he may from time to time require for the use and benefit of any settlement of Indians. 2 Geo. V. c. 59, s. 2.

No payment of Legislative grant to any hospital unless it has a sufficient quantity of vaccine matter on hand, etc.

3. No warrant shall issue for the payment of any money granted by this Legislature to any hospital or dispensary, unless a certificate has been filed in the office of the Clerk of the Executive Council, signed by a medical officer of such hospital or dispensary, to the effect that there is actually on hand therein a supply of vaccine matter which is believed to be sufficient for the purposes mentioned in section 2 from the date of such certificate, or setting forth reasons in explanation of any deficiency in such supply to the satisfaction of the Lieutenant-Governor in Council, nor unless, nor until a cer-

tificate so signed has been filed to the effect that at no time since the date of the then last certificate, has the demand upon such hospital or dispensary for vaccine matter for such purposes exceeded the supply in hand in such hospital or dispensary, or setting forth reasons in explanation of any deficiency in such supply, to the satisfaction of the Lieutenant-Governor in Council. 2 Geo. V. c. 59, s. 3.

4. The trustees, governors, directors or other officers or persons having for the time being the control and management of any hospital or dispensary to which aid has been granted during any Session of the Assembly shall cause to be transmitted to the Provincial Secretary, in time for copies thereof to be laid before the Assembly during the first fifteen days of the then next Session, a statement certified by the proper officers of such hospital or dispensary showing the number of persons who have applied for and received free vaccination, the number of persons who have applied for and received vaccination at their own expense, and the number, amount and application of fees charged and received for vaccination. 2 Geo. V. c. 59, s. 4.

Annual statement to be laid before Assembly respecting vaccination.

5.—(1) The corporation of every city, town, township and village shall contract with one or more legally qualified medical practitioners, for the period of one year, and so from year to year as such contract expires, for the vaccination, at the expense of the corporation, of all poor persons, and at their own expense of all other persons resident in such municipality who come to such medical practitioners for that purpose.

Employment by municipalities of medical practitioners to vaccinate residents.

(2) It shall be a condition of every such contract, that the amount of the remuneration to be received under the same shall depend on the number of persons who, not having been previously successfully vaccinated, are successfully vaccinated by such medical practitioners. 2 Geo. V. c. 59, s. 5.

Remuneration to depend on success.

6.—(1) If the corporation neglects to make such contract and such neglect continues for one month after the attention of the council has been called in writing by the local board of health to such neglect, and to the powers which, in case of such neglect, it may exercise under the authority of this Act, the local board may contract with the medical officer of health of the municipality, or other legally qualified medical practitioner, to perform all the duties which may be performed by or are incumbent upon a medical practitioner under this Act if appointed or contracted with by the corporation under the next preceding section, and the corporation shall be liable to the medical practitioner for the fees for vaccination or for duties performed to the extent provided for by this Act as if the contract had been made by or with the corporation.

Powers of local board of health in default of municipality.

(2) The local board of health may also, unless the council has already done so, appoint the places and give the notice

Local board to appoint place and give notice.

where and when such vaccination shall be performed, as is required by the next succeeding section, to be done by the council. 2 Geo. V. c. 59, s. 6.

Municipalities
to appoint
convenient
places for per-
formance of
vaccination.

7. The council of every city and town shall appoint a convenient place in each ward, and the council of every township and village shall appoint a convenient place therein for the performance, at least once in each month, of such vaccination, and shall take effectual means for giving, from time to time, to all persons resident within each such ward or within the township or village due notice of the days, hours and place at which the medical practitioner or one of the medical practitioners contracted with for such purpose will attend to vaccinate all persons not successfully vaccinated who may then appear there, and also of the days, hours and place at which such medical practitioner will attend to inspect the progress of such vaccination in the persons so vaccinated. 2 Geo. V. c. 59, s. 7.

Parents, etc.,
bound to take
children to be
vaccinated.

8.—(1) The father and mother of every child born in such city, town, township, or village shall, at some appointed time within three months after the birth of such child, or in the event of the death, illness, absence or inability of the father and mother, then the person who has the care, nurture or custody of the child, shall at some appointed time within four months after the birth of the child, take or cause to be taken the child to the medical practitioner in attendance at the appointed place, according to the provisions of the preceding sections, for the purpose of being vaccinated, unless the child has been previously vaccinated by a legally qualified medical practitioner and the vaccination has been duly certified; and the medical practitioner so appointed shall thereupon, or as soon after as it can conveniently and properly be done, vaccinate the child.

And exhibit
them to the
medical prac-
titioner on
eighth day.

(2) Upon the eighth day following the day on which any child has been so vaccinated, the father or mother, or other person having the care, nurture or custody of the child, shall again take or cause to be taken the child to the medical practitioner by whom the operation was performed, or the other medical practitioner in attendance, in order that he may ascertain by inspection the result of the operation.

Certificate of
successful
vaccination
to be given.

(3) Immediately after the successful vaccination of a child born in any city, town, township or village the medical practitioner who performed the operation shall deliver to the father or mother, or other person having the care, nurture or custody of the child, a certificate under his hand, Form 1, that the child has been successfully vaccinated, and shall transmit a duplicate of the certificate to the clerk of the municipality in which the operation was performed.

What to be
evidence of.

(4) Such certificate shall, without further proof, be admissible as evidence of the successful vaccination of the child in any information or complaint brought against the father

or mother, or the person who had the care, nurture or custody of the child, for noncompliance with the provisions of this Act.

(5) If the medical practitioner is of opinion that a child brought to him is not in a fit and proper state to be successfully vaccinated he shall deliver to the father or mother of the child, or the person having the care, nurture or custody of the child, on demand and without fee, a certificate under his hand, Form 2, that the child is in an unfit state for successful vaccination.

If the child be found unfit for vaccination.

Certificate.

(6) Such certificate or a similar certificate of a legally qualified medical practitioner shall remain in force for two months from its delivery; and the father or mother, or the person having the care, nurture or custody of the child, unless within each succeeding period of two months a renewal of such certificate has been obtained from a legally qualified medical practitioner, shall, within two months after the delivery of the certificate, and if the child is not vaccinated by the termination of such period, then during each succeeding period of two months until the child has been successfully vaccinated, take or cause to be taken to the medical practitioner, so appointed, such child to be vaccinated by him.

How long to be in force.

Re-presentation of the child to be repeated until successful vaccination.

(7) If the medical practitioner deems the child to be then in a fit and proper state for successful vaccination, he shall forthwith vaccinate it, and shall immediately after the successful vaccination of the child deliver to the father or mother, or the person having the care, nurture or custody of the child, a certificate under his hand, Form 1, that the child has been successfully vaccinated.

Vaccination and certificate thereof.

(8) If the medical practitioner is of opinion that the child is still in an unfit state for successful vaccination he shall again deliver to the father or mother, or to the person having the care, nurture or custody of the child, a certificate under his hand, Form 2, that the child is still in an unfit state for successful vaccination, and the medical practitioner, so long as the child remains in an unfit state for vaccination and unvaccinated, shall, at the expiration of every succeeding period of two months, deliver, if required, to the father or mother, or to the person having the care, nurture or custody of the child, a fresh certificate under his hand, Form 2.

Certificate of unfitness for vaccination on re-examination.

(9) The production of such certificate or a similar certificate from a legally qualified medical practitioner shall be a sufficient defence against any complaint brought against the father or mother, or person having the care, nurture or custody of such child, for non-compliance with the provisions of this Act.

Effect of certificate.

(10) If a medical practitioner employed under the provisions of this Act, or any other duly qualified medical practitioner, is of opinion that any child vaccinated by him is insusceptible of the vaccine disease, he shall deliver to the

If the child is found insusceptible of vaccine disease.

father or mother, or to the person having the care, nurture or custody of the child, a certificate under his hand, Form 3, and the production of the certificate shall be a sufficient defence against any complaint which may be brought against the father or mother, or person having the care, nurture or custody of the child, for non-compliance with the provisions of this Act.

Children brought into municipality.

(11) This section shall also apply to all children over the age of three months who become resident in a municipality, and such children shall, for the purposes of this section, be considered as children born in the municipality at the date on which they became resident within it. 2 Geo. V. c. 59, s. 8.

Fees under this Act.

9. In all contracts made under the provisions of this Act the sums contracted to be paid shall not be more than twenty-five cents for each person successfully vaccinated, including all or any of the certificates required by this Act. 2 Geo. V. c. 59, s. 9.

Penalty for non-compliance with the requirements of this Act.

10. If the father or mother, or person having the care, nurture or custody of a child, does not cause the child to be vaccinated within the periods prescribed by this Act, or does not, on the eighth day after the vaccination has been performed, take or cause to be taken the child for inspection, according to the provisions of this Act, the father or mother, or other person so offending shall incur a penalty not exceeding \$5. 2 Geo. V. c. 59, s. 10.

How far and when plea of conviction shall avail.

11.—(1) After the expiration of two months from the conviction of any person for an offence against this Act, in respect of any child, no plea of such conviction shall be a sufficient defence against any complaint which may then be brought against the same or any other person for non-compliance with the provisions of this Act in respect of the same child.

Production of certificates in defence.

(2) The production of a certificate, Form 1 or 3, under the hand of a legally qualified medical practitioner, shall be a sufficient defence against such complaint; but the production of a certificate, Form 2, shall not be a sufficient defence unless the vaccination is thereby postponed to a day subsequent to that on which the complaint is brought. 2 Geo. V. c. 59, s. 11.

Enforcing vaccination.

12.—(1) In every municipality where smallpox exists, or in which the Provincial or local board of health has notified the council that in its opinion there is danger of its breaking out owing to the facility of communication with infected localities, the council of the municipality shall order the vaccination or re-vaccination of all persons resident in the municipality who have not been vaccinated within seven years, and that such vaccination or re-vaccination shall be carried out in so far as the same may be applicable in the

same manner as the vaccination of children, except that a person of fourteen years of age or over, but under the age of twenty-one years, who is not in the custody or under the control of his father or mother or of any other person, and every person of twenty-one years or over, shall present himself for vaccination by the medical practitioner, or by some other legally qualified medical practitioner, and the medical practitioner shall adopt the same measures to secure the vaccination or re-vaccination of every such person as he is required to take with regard to children.

(2) A proclamation issued by the head of the municipality, and published in posters and in at least one newspaper published within the municipality, or, if there is no such newspaper, in at least one newspaper published in the county or district in which such municipality is situate, warning the public that this section is in force shall be sufficient evidence to justify the conviction of any person who has failed to comply with the law within a period of seven days from the publication of the proclamation. Proclamation by head of municipality.

(3) Every member of a municipal council which neglects or refuses to make the order required by subsection 1 or to make proper provision for carrying the same into effect, shall incur a penalty not exceeding \$25, unless he proves that he did everything in his power to secure the making of the order or the making of proper provision for carrying any such order into effect, and causes his protest against such refusal or neglect to be recorded in the proceedings of the council. Penalty for neglect by member of municipality.

(4) If the head of a municipality neglects or refuses to issue and publish the proclamation required by subsection 2 he shall incur a penalty not exceeding \$25. By head of municipality.

(5) Every person who wilfully neglects or refuses to obey the order of the council shall incur a penalty not exceeding \$25. Penalty for neglect to obey order of council. 2 Geo. V. c. 58, s. 12.

13.—(1) Where it is deemed necessary by the medical officer of health of any municipality, owing to the presence or threatened presence of smallpox, he may, with the approval of the local board of health, require certificates of successful vaccination or of insusceptibility on re-vaccination within seven years, of all pupils or students of a public, separate, continuation or high school or collegiate institute, and of a college or university, or of any other public or private institution of learning within the municipality, to be presented to the proper authorities of the institution, and no pupil or student refusing to produce such certificate on demand shall be admitted to further attendance in the institution until the certificate is furnished. Vaccination of pupils and students.

(2) Any principal, teacher, superintendent or officer of any such institution who commits or is party or privy to any Penalty.

contravention of subsection 1 shall incur a penalty not exceeding \$20. 2 Geo. V. c. 59, s. 13.

Penalty for
inoculating
with variolous
matter.
C.S.C. c. 89,
s. 1. R.S.O.,
1886. App.
No. 1, p. 2.

14. Any person who by inoculation with or by wilful exposure to variolous matter or by any matter, article or thing impregnated with variolous matter, or wilfully by any other means produces or attempts to produce the disease of smallpox in any person, shall upon conviction thereof be liable to imprisonment for any term not exceeding one year. 2 Geo. V. c. 59, s. 14.

Erasure
from register
of medical
council.

15. If a legally qualified medical practitioner is convicted of an offence against section 14 his name shall be erased from the Register of the College of Physicians and Surgeons of Ontario, but the medical council at any time after the expiration of the term of imprisonment of any such person may restore his name to the Register. 2 Geo. V. c. 59, s. 15.

Prosecutions.

Rev. Stat. c. 90.

16. Every prosecution under this Act shall take place before a police magistrate or two justices of the peace and *The Ontario Summary Convictions Act* shall apply thereto. 2 Geo. V. c. 59, s. 16.

FORM 1.

(Sections 8 and 11.)

CERTIFICATE OF VACCINATION.

I, the undersigned, a legally qualified medical practitioner, hereby certify that _____, the child of _____, aged _____, of _____ Ward, in the City of _____ (or as the case may be), has been successfully vaccinated by me.

A.B.

Dated this _____ day of _____, 19 _____.

2 Geo. V. c. 59, Form 1.

FORM 2.

(Sections 8 and 11.)

CERTIFICATE OF UNFITNESS FOR VACCINATION.

I, the undersigned, a legally qualified medical practitioner, hereby certify that I am of opinion that _____ the child of _____, of _____ Ward, in the City of _____ (or as the case may be), aged _____, is not now in a fit and proper state to be successfully vaccinated, and I do hereby postpone the vaccination until the _____ day of _____.

A.B.

Dated this _____ day of _____, 19 _____.

2 Geo. V. c. 59, Form 2.

FORM 3.

(Sections 8 and 11.)

CERTIFICATE OF INSUSCEPTIBILITY TO VACCINE DISEASE.

I, the undersigned, a legally qualified medical practitioner,
hereby certify that I am of opinion that the child of
, of Ward, in the City of
(or as the case may be), is insusceptible of the vaccine disease.

A.B.

Dated this day of , 19 .

2 Geo. V. c. 59, Form 3.

CHAPTER 220.

An Act to encourage Housing Accommodation
in Cities and Towns.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Housing Accommodation Act. New.*

Interpre-
tation.

2. In this Act,

"Land."

(a) "Land" shall include leaseholds;

"Securities."

(b) "Securities" shall mean bonds, debentures, debenture stock or other securities. 3-4 Geo. V. c. 57, s. 1.

Petition of
company to
council for
guarantee
of bonds.Rev. Stat.
c. 178.

3. A company incorporated under *The Ontario Companies Act* with a share capital whose main purposes of incorporation are the acquisition of land in or near a city or town in Ontario and the building and making thereon of dwelling houses of moderate size and improvements and conveniences, to be rented at moderate rents, may petition the council of such city or town to guarantee its securities to enable or assist it to raise money to carry out such main purposes. 3-4 Geo. V. c. 57, s. 2.

By-law for
guarantee
of bonds
with assent
of electors.

4.—(1) If the council is satisfied that additional housing accommodation for those living or working in the municipality is urgently needed, and that the main purpose of the company is to help, *bona fide*, in supplying such need and is not to make profits, and that the company, without borrowing the money required, over and above the proceeds of the guaranteed securities, for the housing accommodation in contemplation, will be able to provide the same the council may, with the assent of the electors entitled to vote on money by-laws, pass a by-law authorizing and providing for the giving by the council of such guarantee to the amount and upon the terms and conditions hereinafter contained.

When assent
of electors
not re-
quired.

(2) It shall not be necessary to obtain the assent of the electors to the by-law if it is approved of by the Provincial Board of Health. 3-4 Geo. V. c. 57, s. 3.

Approval of
location of
land.

5. The council or a committee thereof shall, before the guarantee is given, approve of the location of the land

selected for the housing accommodation and of the general plans for the houses. 3-4 Geo. V. c. 57, s. 4.

6. The securities to be guaranteed shall be secured by one ^{Mortgage} or more deeds of trust by way of first mortgage or charge ^{securing} upon such land as the council or committee may approve of, ^{bonds.} including the houses and improvements built and made or to be built and made thereon. 3-4 Geo. V. c. 57, s. 5.

7. The kind of securities to be guaranteed and the forms ^{Approval of} and terms thereof, and the forms and terms of the deed or ^{forms of} deeds of trust securing them, and the trustee or trustees, and ^{securities,} the times and manner of the issue of securities, and the dis- ^{mortgages,} ^{guarantee,} ^{etc.} position of the money to be raised thereon by sale, pledge or otherwise pending the expenditure of such money and the forms and manner of guarantee, shall be such as the council or committee approve of; and such terms, provisions and conditions may be included in such deed or deeds of trust as the council or committee deem expedient or necessary. 3-4 Geo. V. c. 57, s. 6.

8.—(1) The guarantee shall be signed by the mayor and ^{Execution} treasurer of the municipal corporation, and upon being so ^{of guarantee.} signed the corporation shall become liable for the payment of the principal and interest of the securities guaranteed according to the tenor thereof.

(2) If the corporation becomes liable to pay any of such ^{Authority to} guaranteed securities it may provide for the payment of the ^{provide funds} same out of the general funds of the corporation or by the ^{to meet} issue of debentures payable within a term not exceeding ten ^{guarantee.} years from the issue thereof, and it shall not be necessary to obtain the assent of the electors to a by-law providing for the issue of such debentures. 3-4 Geo. V. c. 57, s. 7.

9. The total amount of securities to be guaranteed shall ^{Limit of} not in the first instance exceed eighty-five per centum of an ^{guarantee.} amount to be fixed in the deed or deeds of trust as representing the value of the land and housing accommodation and improvements to be built and made thereon; and the deed or deeds may make all convenient provisions for the expenditure of additional money on such land and housing accommodation and improvements, and for the acquisition of additional land to be made part of the mortgaged premises and for expenditure thereon, and for the issue of additional guaranteed securities under such deed or deeds, but so that the total amount outstanding shall not exceed eighty-five per centum of the value of the mortgaged premises to be ascertained and fixed in the manner provided in such deed or deeds, and for the issue of such additional securities in advance of expenditure, and for the disposition of the money to be raised thereon by sale, pledge or otherwise pending the expenditure thereof. 3-4 Geo. V. c. 57, s. 8.

Appointment of one Director by Council.

10.—(1) The council of the municipal corporation which guarantees securities of the company as provided for in this Act may from time to time appoint and remove one member of the board of directors of such company, and in case of a vacancy in such membership by removal, death, resignation or otherwise his successor may be appointed by the council, and so on from time to time.

Holding stock not required.

(2) It shall not be necessary for the appointee of the council to hold stock in the capital of the company or to be otherwise qualified as a director. 3-4 Geo. V. c. 57, s. 9.

Inspection of books of company.

11. The books of a company whose securities have been guaranteed by a municipal corporation, hereinafter referred to as the "Assisted Company," shall at all times be open to inspection by any person named in that behalf by the council. 3-4 Geo. V. c. 57, s. 10.

Limit of dividends.

12.—(1) No dividend upon the capital stock of the Assisted Company or other distribution of profits among the shareholders shall be declared or paid exceeding six per centum per annum in any one year.

Instalments.

(2) Such dividend may be payable in instalments during the year.

Making up deficiencies.

(3) If the sums paid in any year do not amount to six per centum the deficiency, with interest, may be made up in any subsequent year or years. 3-4 Geo. V. c. 57, s. 11.

Application of profits after payment of dividends.

13.—(1) Any net profits received by the Assisted Company in any year and not required to pay such six per centum or to make up a deficiency therein or for a reasonable contingent fund shall be expended by the company in acquiring land, improving its housing accommodation by way of new buildings, additions, extensions or other improvements or in redeeming or getting in the capital stock of the company as hereinafter provided.

Enforcement of guarantee.

(2) The Supreme Court shall have jurisdiction, upon the application of the council of the municipal corporation guaranteeing the company's securities, to enforce by mandamus or otherwise the carrying out of this section by the company, its directors and officers. 3-4 Geo. V. c. 57, s. 12.

Power to redeem outstanding shares.

14.—(1) The Assisted Company may, with the approval of the council of the municipal corporation guaranteeing its securities, pass a by-law providing for redeeming or getting in, upon such plan and terms and at such times as may be deemed best, the whole or part from time to time of the outstanding shares in the capital stock of the company.

Money available for redemption.

(2) For such purpose any available money, whether representing capital or otherwise may be used; but no greater premium than ten per centum shall be paid upon the redemp-

tion or getting in of any share, and after five years from the first issue of guaranteed securities the company, at the request of the council, shall pass such by-law and any difference which may then arise respecting the terms thereof shall be settled by the Lieutenant-Governor in Council. 3-4 Geo. V. c. 57, s. 13.

15. Any shareholder may give or bequeath to the Assisted Company or to the board of trustees, established under section 16, the whole or any part of his shares in the capital stock of the company, and the company may accept and hold the same until transferred to such board of trustees. 3-4 Geo. V. c. 57, s. 14.

Power of shareholders to bequeath shares to company.

16.—(1) The Assisted Company may, with the approval of the council of the municipal corporation guaranteeing the securities, establish a board of trustees to receive and hold the shares redeemed or got in or given or bequeathed to the company or to such board upon such trusts and for such purposes and with such powers as may be thought expedient in furtherance of the objects of this Act and as may be declared or provided for in the instrument establishing the board.

Establishment of board of trustees.

(2) The successors of such trustees shall be appointed in the manner provided for in the instrument.

(3) The company with the like approval may alter the terms of the instrument and add to or otherwise vary the trusts, purposes and powers therein mentioned.

(4) After five years from the first issue of guaranteed securities the company, at the request of the council, shall establish such board of trustees, and any differences which may then arise respecting the terms of the instrument establishing the board shall be settled by the Lieutenant-Governor in Council. 3-4 Geo. V. c. 57, s. 15.

17. The shares redeemed or got in or given or bequeathed to the company shall not become extinct but shall be transferred to and vested in the board of trustees. 3-4 Geo. V. c. 57, s. 16.

Redeemed shares vested in board of trustees.

18. The council of the municipal corporation guaranteeing the company's securities may from time to time furnish the company with money to be applied in the redemption or getting in of shares from time to time under the terms of the by-laws mentioned in section 14, and the company shall apply such money accordingly. 3-4 Geo. V. c. 57, s. 17.

Authority to furnish money to redeem shares.

19. No share in the capital of the Assisted Company shall be sold or disposed of for any consideration other than cash and money received by the Assisted Company on account of its capital stock shall not be used for expenditures other than those connected with the carrying out of the main pur-

Stock to be sold only for cash.

poses of the company, that is to say, the acquisition of land in or near a city or town in Ontario and the building and making thereon of dwelling houses of moderate size and improvements and conveniences, and the carrying out of the objects of this Act. 3-4 Geo. V. c. 57, s. 18.

Power to
accept
legacies, de-
vises, etc.
Rev. Stat.
c. 103.

20. The Assisted Company may accept gifts, devises and bequests of real and personal property, notwithstanding *The Mortmain and Charitable Uses Act*. 3-4 Geo. V. c. 57, s. 19.

8. PREVENTION OF FRAUDS.

CHAPTER 221.

An Act respecting the Production and Sale of Milk
for Human Consumption.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Milk Act*. 1 Geo. V. Short title.
c. 69, s. 1.

2. In this Act, "Municipality" shall not include County. Interpretation "Municipality."
1 Geo. V. c. 69, s. 2.

3. The Council of every municipality may pass by-laws Powers of municipal councils.
for regulating milk produced for sale, offered for sale or sold within such municipality as to the

- (a) care of cows producing milk for sale for domestic consumption;
- (b) cleanliness, ventilation and sanitary conditions of the places in which cows are kept or milked or in which milk is stored;
- (c) water supplied to cows;
- (d) care and cleansing, construction and type of all utensils used in handling milk, whether by producers, carriers or vendors;
- (e) care, storage, transportation and distribution of milk by producers, carriers or vendors;
- (f) making of bacteriological tests for the purpose of ascertaining the wholesomeness of milk offered for sale by any producer, carrier or vendor; and
- (g) other matters regarding the production, care, transportation or sale of milk which the Council may deem necessary;

and upon such regulations being approved in writing by the Minister of Agriculture, they shall apply to all milk pro- Approval of regulations.
duced for sale, offered for sale or sold within such municipality. 1 Geo. V. c. 69, s. 3.

By laws
regulating
the grant-
ing of
licenses.

4.—(1) The council of every municipality may pass by-laws for licensing and regulating the granting of licenses to vendors of milk for human consumption, and may refuse or cancel such licenses.

Not to be
sold without
a license.

(2) No person shall sell milk in a municipality in which such by-laws are in force without first obtaining a license therefor. 1 Geo. V. c. 69, s. 4.

By-laws
fixing
standards
of butter-
fat and
solids.

5.—(1) The council of every municipality may pass by-laws fixing the standard for butter fat and total solids of milk sold in such municipality, but no milk shall be sold for human consumption which contains less than twelve per cent. of solids, of which three per cent. is butter fat.

Preserva-
tives, etc.,
not to be
used.

(2) No person shall place any preservative in milk intended for human consumption, or sell or offer for sale to any vendor milk from which any part of the butter fat has been removed, or to which water has been added, or which has otherwise been changed from its normal condition, without previously giving notice in writing of such change to such vendor.

Departures
from stan-
dard or
normal con-
dition must
be adver-
tised.

(3) No vendor of milk shall sell or offer for sale milk not complying with the standard, or from which butter fat has been removed, or to which water has been added, or which has otherwise been changed from its normal condition, without clearly and distinctly advertising the same in the manner prescribed by the by-law of the municipality in which it is sold. 1 Geo. V. c. 69, s. 5.

Appoint-
ment of
municipal
inspectors.

6.—(1) The council of every municipality may by by-law appoint an inspector or inspectors for the enforcement of this Act and any by-law passed hereunder, and every such inspector may prohibit the sale, within the municipality for which he is inspector, of milk for human consumption which in his judgment is produced or handled contrary to the provisions of this Act or the by-law.

Powers of
inspectors.

(2) Every such inspector may inspect the premises of every vendor licensed to sell milk within the municipality, to see that the requirements of this Act and the by-laws are fully complied with, and may take samples of milk for examination and testing.

Right to
enter, take
samples, etc.

(3) Every such inspector may enter the premises, wherever located, of every person producing milk for sale or consumption within the municipality, fully inspect the same, and take for examination and testing samples of milk produced therein and of the water supplied to cows or used in cleansing dairy utensils.

Inspecting
and taking
samples in
transit.

(4) Every such inspector may inspect and take samples of milk for sale or consumption within the municipality while in transit, and may enter any premises in order to procure samples of such milk.

(5) The result of all such tests shall be open to public inspection at all reasonable times and may be published by the medical officer of health of the municipality. 1 Geo. V. c. 69, s. 6. Publication of tests.

7—(1) There shall not be sold milk from any cow which, upon physical examination by a duly qualified veterinary surgeon, is declared to be suffering from tuberculosis of the udder or milk glands, or whose milk, upon bacteriological or microscopical analysis, is shown to contain tubercle bacilli, or which is known to be suffering from splenic fever or anthrax, or any other general or local disease which is liable to render milk from such cow dangerous to health. Milk from diseased cows.

(2) Where an inspector suspects that a cow is affected with any of such diseases he shall notify the owner that the milk of such cow must not be sold or offered for sale until a permit has been granted by the board of health of the municipality in which such milk is to be consumed; and after such notice is given the milk from such cow shall not be sold until the permit is granted. 1 Geo. V. c. 69, s. 7. Idem.

8. No person suffering from, or who has knowingly, within a time prescribed by the regulations of the Provincial Board of Health, been exposed to diphtheria, scarlet fever, typhoid fever, erysipelas, smallpox, chickenpox, measles, glanders, anthrax, venereal disease or any infectious skin disease shall work or assist in the production, transportation or vending of milk, and no owner, manager or superintendent of any dairy or dairy farm shall knowingly permit any person so suffering or exposed to work or assist in the production, transportation or vending of milk, and the sale of milk produced or handled under such circumstances may be prohibited by the inspector. 1 Geo. V. c. 69, s. 8, *amended*. Persons suffering from diseases not to be employed.

9. Cans, bottles or other utensils used in the distribution of milk shall not be used for any other purpose, and must be thoroughly cleansed before being again used. 1 Geo. V. c. 69, s. 9. Use and cleansing of utensils.

10. The council of every municipality may establish and maintain or assist by annual grant or otherwise in the establishment and maintenance of milk depots in order to furnish a special supply of milk to infants. 1 Geo. V. c. 69, s. 10. Municipal milk depots.

11.—(1) The term “certified” shall not be applied to any milk unless: Use of word “certified.”

- (a) It is taken from cows semi-annually subjected to the tuberculin test and found without reaction; Conditions.
- (b) It contains not more than 10,000 bacteria per cubic centimetre from June to September both inclusive, and not more than 5,000 bacteria per cubic centimetre from October to May both inclusive;

- (c) It is free from blood, pus, or disease-producing organisms;
- (d) It is free from disagreeable odour or taste;
- (e) It has not undergone pasteurization or sterilization, and is free from chemical preservatives;
- (f) It has been cooled to forty-five degrees Fahrenheit or under within half an hour after milking, and kept at that temperature until delivered to the consumer;
- (g) It contains twelve to thirteen per cent. of milk solids, of which at least three and one-half per centum is butter fat;
- (h) It is from a farm the herd of which is inspected monthly by a duly qualified veterinary surgeon, and the employees of which are examined monthly by a legally qualified medical practitioner.

Duration of
certificate.

(2) No milk shall be sold as "certified" unless a certificate setting forth that the above conditions have been complied with has been obtained within one year from the medical officer of health of the municipality in which it is to be consumed or from an incorporated society of medical practitioners in Ontario. 1 Geo. V. c. 69, s. 11, *amended*.

Use of word
"pasteur-
ized."

12. The word "Pasteurized" shall not be applied to any milk unless all portions of it have been subjected for at least twenty and not more than thirty minutes to a temperature of not less than 140 and not more than 150 degrees Fahrenheit and then at once cooled to 45 degrees Fahrenheit or under and kept at that temperature until delivered to the consumer; and the process of pasteurization shall be subject to inspection by the local medical officer of health or such inspector as he may designate. 1 Geo. V. c. 69, s. 12.

Penalties.

13. Any person contravening any of the provisions of this Act or of any by-law passed hereunder shall incur a penalty of not less than \$1 nor more than \$50 recoverable under *The Ontario Summary Convictions Act*.

Rev. Stat. c. 90,

CHAPTER 222.

An Act respecting Milk, Cheese and Butter
Manufacturers.

HIS MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows: —

1. This Act may be cited as *The Milk, Cheese and Butter* Short title.
Act. 3-4 Geo. V. c. 59, s. 1.

2. In this Act, Interpretation.

(a) "Factory" shall mean and include a cheese or butter Factory.
manufactory, condensed milk factory, creamery,
milk powder factory, or other premises where
milk or cream is collected for sale or shipment or
manufacture;

(b) "Minister" shall mean Minister of Agriculture. Minister.
3-4 Geo. V. c. 59, s. 2.

3. The owners or board of management of a creamery may Power to
make such rules and regulations as may be deemed advisable make rules.
for the due carrying on of the business of the creamery.
3-4 Geo. V. c. 59, s. 3.

4. The patrons of all creameries may be required to sub- Rules to be
scribe their names to such rules and regulations, and the binding on
same shall be binding on them and on the owners and board of patrons, etc.
management. 3-4 Geo. V. c. 59, s. 4.

PREVENTION OF FRAUDS.

5.—(1) The owner or manager of a factory may require Right to test
the owner or custodian of a cow whose milk is being bought milk.
for, or supplied or sent to the factory to submit such cow,
at the premises where it is usually kept, to such milk test by
persons named by such owner or manager as may be neces-
sary for them to ascertain the quantity and quality of the
milk of such cow on any day as may be appointed by such
owner or manager.

(2) If the owner or custodian refuses to so submit the cow Interfering
or obstructs the persons making the milk test, or interrupts with test.
the test, or interferes in any way with it he shall for every

such offence incur a penalty of not less than \$10 nor more than \$100. 3-4 Geo. V. c. 59, s. 5.

Right to take
samples of
milk.

6.—(1) The owner or manager of a factory who suspects any person selling, supplying, sending or bringing milk to the factory, of an offence against this Act, may enter upon, or may appoint some person or persons to enter upon, and such person or persons may enter upon the premises of the suspected person, with or without notice, and take samples of milk from any cow from which the supposed offender was, or had been immediately before then, procuring the milk or part of the milk so sold, supplied, sent or brought.

Interfering
with taking
of samples.

(2) Any such suspected person who obstructs or refuses to permit the taking of any such sample shall incur a penalty of not less than \$10 nor more than \$50. 3-4 Geo. V. c. 59, s. 6.

Notice to be
given when
milk diluted,
etc.

7. No person shall sell, supply, bring or send to a factory, or the owner or manager thereof, milk diluted with water or in any way adulterated, or milk from which any cream has been taken, or milk commonly known as "skimmed milk," or milk in which any preservative is contained without distinctly notifying in writing the owner or manager of such factory of the fact. 3-4 Geo. V. c. 59, s. 7.

Notice to be
given when
any part of
milk is kept
back.

8. No person who, in the course of his business, agrees to sell, supply, bring or send to a factory, or the owner or manager thereof, to be manufactured, the milk of any cow shall, in the course of such dealing and business, keep back any part of the milking of such cow without distinctly notifying in writing the owner or manager of such factory what portion of the milk he has so kept back. 3-4 Geo. V. c. 59, s. 8.

Notice to be
given when
milk tainted.

9. No person shall sell, supply, bring or send to a factory, or the owner or manager thereof, to be manufactured any milk tainted or partly sour without distinctly notifying in writing the owner or manager of such factory of the fact. 3-4 Geo. V. c. 59, s. 9.

Supplier
keeping
premises,
etc., in
clean and
sanitary
condition.

10. Every person supplying milk or cream to a factory shall keep his dairy, milk house, milk stand, vessels and equipment used for storing or carrying milk or cream in a clean and sanitary condition. 3-4 Geo. V. c. 59, s. 10.

Creameries and
cheese
factories to be
kept clean.

11.—(1) Every factory and its surroundings shall be kept in a clean and sanitary condition, and all the water used therein for the manufacture of any dairy product shall be clean and pure.

Penalty.

(2) The owner or manager of a factory who refuses or neglects to observe the provisions of this section after being

warned or advised by a dairy inspector shall incur a penalty of not less than \$5 or more than \$200. 3-4 Geo. V. c. 59, s. 11.

12.—(1) Upon the recommendation of the Minister the Lieutenant-Governor in Council may appoint one or more persons as inspectors for enforcing the provisions of this Act who shall be known as dairy inspectors. Appointment of inspectors.

(2) The Lieutenant-Governor in Council may determine the remuneration to be paid to such inspectors. 3-4 Geo. V. c. 59, s. 12. Remuneration.

13.—(1) Every dairy inspector shall have free access and admission to every factory and to all the land adjoining the same and to the premises of all persons supplying milk or cream to any cheese factory or creamery. Powers of inspectors.

(2) He may take and test samples of milk found in a factory or in transit between a producer and a factory. Taking samples of milk.

(3) He may take and test samples of milk found upon the premises of producers supplying milk to a factory, and may take and test samples from cows which have been producing milk to be sold to factories. Idem.

(4) Any person refusing admission or offering obstruction to the work of inspection or of taking samples or testing the same shall incur the penalty provided by section 15. Obstructing inspection.

(5) Every inspector may at any time take samples for testing any product manufactured in any factory. 3-4 Geo. V. c. 59, s. 13. Inspectors may take samples.

14. Every inspector shall make such reports and in such form as the Minister may direct. 3-4 Geo. V. c. 59, s. 14. Report of inspector.

PENALTIES.

15.—(1) Any person who, by himself or by his servant or agent, contravenes any of the provisions of sections 7, 8, 9, 10 or 13 shall incur a penalty of not less than \$5 or more than \$50. Penalty for violations of ss. 7, 8, 9, 10, 13.

(2) For the purpose of establishing the guilt of any person under sections 7 or 8 it shall be sufficient *prima facie* evidence to show that such person, by himself, his servant or agent, sold, supplied, sent or brought to be manufactured to a factory milk which, by comparison made by means of a lactometer and Babcock Tester, was substantially below the standard of that actually drawn, or by the accused represented as having been drawn from the same cows within two weeks. Evidence for violations of ss. 7-8.

Description of
offence in
information
or complaint.

Rev. Stat.
c. 90.

(3) In a complaint under sections 7, 8, 9, 10 or 13 and in a conviction thereon, the milk may be described as deteriorated milk without specification of the cause or mode of deterioration, and the matter complained of may be declared and shall be held to have arisen within the meaning of *The Ontario Summary Convictions Act* at the place where the milk was to be manufactured notwithstanding that the deterioration was effected elsewhere. 3-4 Geo. V. c. 59, s. 15.

As to inspection of premises by Medical Officer of Health see Public Health Act, Rev. Stat. c. 218.

Appropriation
of penalties.

16. A pecuniary penalty under the next preceding section in respect of selling, supplying or bringing milk to a factory shall when recovered be payable one-half to the informant and the other one-half to the owner of the factory to which the milk was sold, supplied, sent or brought in contravention of any of the provisions of this Act to be distributed among the patrons thereof in proportion to their respective interests in and profits thereof. 3-4 Geo. V. c. 59, s. 16.

Fraudulent
use of cream
from milk
supplied.

Penalty.

17.—(1) The owner or manager of a factory, who knowingly and fraudulently uses or directs any of his employees to use for his or their individual benefit any cream from the milk brought to the factory without the consent of all the owners thereof shall for every offence incur a penalty of not less than \$1 or more than \$50, which when recovered shall be payable one-half to the informant and the other one-half to the treasurer of the municipality in which the offence was committed.

Civil remedy.

(2) Any person aggrieved by such fraudulent conduct may at his election recover from the offender by action the amount of damages sustained. 3-4 Geo. V. c. 59, s. 17.

Procedure.

Rev. Stat.
c. 90.

18. The penalties imposed under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*, and in the case of a prosecution under section 17 the complaint shall be heard and determined by two or more justices of the peace. 3-4 Geo. V. c. 59, s. 18.

Application
of Act.

19. Nothing in this Act shall apply to milk sold or offered for sale for human consumption. 3-4 Geo. V. c. 59, s. 19.

CHAPTER 223.

An Act to regulate the Manufacture of Dairy Products.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Dairy Products Act*. Short title.
3-4 Geo. V. c. 58, s. 1.

2. In this Act,

Interpretation.

- (a) "Cheese Factory" shall mean any place to which the milk from the herds of five or more persons is brought for the purpose of being manufactured into cheese for public sale. "Cheese Factory."
- (b) "Creamery" shall mean any place to which the milk or cream from the herds of three or more persons is brought for the purpose of being manufactured into butter for public sale; "Creamery."
- (c) "Inspector" shall mean inspector appointed under *The Milk, Cheese and Butter Act*. "Inspector." Rev. Stat. c. 222.
- (d) "Minister" shall mean Minister of Agriculture. "Minister." 3-4 Geo. V. c. 58, s. 2.

3.—(1) A person who was not on the first day of January, 1910, registered under section 4 of the Act passed in the ninth year of the reign of His late Majesty King Edward the Seventh, chaptered 86, shall not carry on business in a creamery, milk condensory, milk powder factory or the manufacture or collection of any form of dairy products in any building or place not recorded in the list, mentioned in such section, without first receiving from the Minister permission to do so, and the permission shall be granted only after a report from an inspector. Unregistered places not to be conducted without permission of Minister.

(2) Permission may be refused for lack of proper equipment or unsanitary conditions. Grounds of refusal.

(3) An applicant may appeal from the decision of the Minister to the Lieutenant-Governor in Council whose decision shall be final. 3-4 Geo. V. c. 58, s. 3. Appeal to Lieutenant-Governor in Council.

4. Upon the report of an inspector that any creamery, cheese factory, milk condensory, milk powder factory, cream premises. Closing of unsanitary premises.

or milk gathering station or other place for the manufacture or collection of dairy products is not in a satisfactory sanitary condition, or is inadequately equipped for the manufacture or collection of dairy products, the Minister may order the same to be closed forthwith and it shall be kept closed until the inspector reports that it has been put into a satisfactory sanitary condition and is adequately equipped for the manufacture or collection of dairy products. 3-4 Geo. V. c. 58, s. 4.

Note.—As to inspection by Medical Officers of Health, see Public Health Act, Rev. Stat. c. 218, s. 88.

Qualification of chief makers in creameries and cheese factories.

5.—(1) No person who does not hold a certificate of qualification shall act or be allowed to act as chief maker in any creamery or cheese factory.

Who may grant certificate.

(2) The certificate may be granted by

(a) the Dairy School of the Ontario Agricultural College or the Eastern Dairy School;

(b) the Minister on the general grounds of competency as recommended by an Advisory Board to be composed of the Chief Dairy Instructors, the President of the Dairymen's Association of Eastern Ontario, the President of the Dairymen's Association of Western Ontario and the Director of Dairy Instruction.

Permit for two years after examination.

(3) Upon the written authority of the superintendent of either of such dairy schools any person may be allowed to act as a chief maker for a period not to exceed two years after he has passed his examinations in the dairy school. 3-4 Geo. V. c. 58, s. 5.

Penalties.

Rev. Stat. c. 90.

6. Any person contravening the provisions of this Act shall incur a penalty not exceeding \$10, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 58, s. 6.

CHAPTER 224.

An Act respecting the Manufacture and Sale
of Bread.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as *The Bread Sales Act*. 10 Edw. Short title.
VII. c. 95, s. 1.

2. In this Act "Bake-shop" shall mean any building, premises, workshop, structure, room or place in which bread is made for sale or sold. 10 Edw. VII. c. 95, s. 2.

3. The council of every city, town and village, shall, and the council of every township may, appoint an Inspector for the purpose of enforcing the provisions of this Act. 10 Edw. VII. c. 95, s. 8.

4.—(1) Except as provided in subsection 2, no person shall make bread for sale or sell or offer for sale bread except in loaves weighing twenty-four ounces or forty-eight ounces avoirdupois.

(2) Small-bread may be made for sale, offered for sale and sold in any weight not exceeding twelve ounces avoirdupois. 10 Edw. VII. c. 95, s. 3.

5. Every person making bread for sale shall keep in a conspicuous and convenient place in the bake-shop scales and weights suitable for weighing bread, and shall weigh the bread offered for sale by him at the request of any person desiring to purchase the same, and the Inspector may use such scales at any time for the purpose of weighing bread found by him in the bake-shop. 10 Edw. VII. c. 95, s. 4.

6. Every person who makes for sale or sells or offers for sale bread in contravention of the preceding sections, or who neglects to comply with the provisions of section 5, shall incur a penalty not exceeding \$5. 10 Edw. VII. c. 95, s. 5.

7.—(1) Every person who uses an adulterant or deleterious material in the making of bread for sale, or who knowingly sells or offers for sale any bread containing adulterant

Interpreta-
tion.
"Bakeshop."

Appoint-
ment of
Inspector.

Weight of
bread.

Small-
bread.

Scales and
weights in
bakeshop.

Penalty
for making
bread, etc.,
contrary to
provisions
of Act.

Penalty
for using
deleterious
material.

or deleterious material shall incur a penalty not exceeding \$25, and shall also be liable as part of the costs of conviction to pay any expenses incurred in procuring an analysis of such bread.

Certain things deemed *prima facie* evidence of offence.

(2) The keeping in any place where bread is made for sale of any adulterant or deleterious material which may be used in the making of bread shall be *prima facie* evidence of an offence against subsection 1. 10 Edw. VII. c. 95, s. 6.

Penalty for interfering with Inspector.

8. Every person who refuses the Inspector admittance to his bake-shop or who interferes with the Inspector in the performance of his duties shall incur a penalty not exceeding \$10. 10 Edw. VII. c. 95, s. 7.

Weighing of bread by Inspector.

9. The Inspector may at any time prior to delivery to a purchaser weigh any bread made or offered for sale, and may take away any bread and cause the same to be tested for the purpose of discovering if any adulterant or deleterious material has been used in the making thereof, and may seize and remove any bread which does not comply with the provisions of this Act, and may dispose of any bread so seized or removed as the council may by by-law direct. 10 Edw. VII. c. 95, s. 9.

Duties of Inspector.

10. It shall be the duty of the Inspector to see that the provisions of this Act are complied with, and he shall make a report quarterly to the council showing the prosecutions taken and the quantity of bread seized or tested under this Act. 10 Edw. VII. c. 95, s. 10.

When person selling or making light weight bread not liable to penalties.

11. Where a loaf weighing less than the prescribed weight is found, the person making or offering for sale or selling the same shall not be liable to the penalties prescribed by this Act for making or offering for sale or selling bread of short weight unless at least ten loaves are found at the same time which in the aggregate are below the weight required by this Act; but any loaf found to be of short weight shall nevertheless be liable to seizure as hereinbefore provided. 10 Edw. VII. c. 95, s. 11.

Certificate of analyst as evidence.

12. The certificate of the Analyst or Assistant Analyst of the Provincial Board of Health in writing stating the result of any test made by him under the Act and purporting to be signed by him shall be *prima facie* evidence of the facts therein set forth, and shall be receivable without proof of the signature or of the official character of the person who appears to have signed the same in any prosecution under this Act. 10 Edw. VII. c. 95, s. 12.

Recovery of penalties. Rev. Stat. c. 90.

13. The penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*.

CHAPTER 225.

An Act for the Prevention of Fraud in the Sale of Fruit.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Fruit Sales Act*.

Short title.

2. Every person who with intent to defraud:

Penalty for

(a) Alters, effaces, obliterates, or covers wholly or partially, or causes to be altered, effaced, obliterated or covered, any packer's marks or brands made on any article in which any fruit is offered for sale, or

Altering or defacing marks.

(b) Counterfeits any such marks or brands, or writes the same on any such article after the same has been once marked, or

Counterfeiting marks.

(c) Empties or partially empties any such marked article, in order to put into the same any other fruit of the same or any other kind not contained therein at the time of the original marking, or

Using marked article improperly.

(d) Uses for the purpose of packing fruit any article bearing marks or brands previously made by any other packer, or

Using article previously marked.

(e) Falsely states the grade of fruit packed in the article marked, or the name or address of the packer, or the weight or measure of the fruit so packed,

Making false marks.

and every person who knowingly and with intent to defraud so places or arranges apples, pears, plums, peaches, nectarines, cherries, grapes, apricots or berries of any description in any box, crate, barrel, basket or other article for delivery to any other person in such a manner as to conceal defects in size or quality in any portion of such fruit by covering the same with fruit of larger size or better quality or otherwise shall incur a penalty of not less than \$1 nor more than \$5 recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 253, ss. 1, 2.

Packing so as to conceal defects in fruit.

3. Every person receiving fruit of any kind mentioned in the preceding section for sale in bulk on commission shall, when requested to do so by the consignor in writing, furnish

Consignee to notify consignor of particulars of sales.

the said consignor, within one week after receiving notice or after disposing of the fruit as may be requested, with a written detailed statement in regard to the sale or disposal of the same, giving the price or prices received therefor and the names and addresses of the purchasers. R.S.O. 1897, c. 253, s. 3.

Prosecution
not to bar
other pro-
ceedings.

4. No prosecution or conviction under this Act shall be a bar to any proceeding for the recovery of penalties which may be imposed under any other Act, nor to any action for the recovery of damages which may be brought by any person injured or defrauded by the sale of fruit in violation of the provisions of this Act, but all such penalties may be recovered and all such actions may be brought in the same manner as if this Act had not been passed. R.S.O. 1897, c. 253, s. 4.

CHAPTER 226.

An Act to prevent the Fraudulent Entry of Horses at Exhibitions.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Entry of Horses at Exhibitions Act*. Short title.

2. No person shall enter or cause to be entered for competition for any purse, prize, premium, stake or sweepstake offered or given by any agricultural or other society or association, where the contest is to be decided by speed, any horse, colt or filly under a false or assumed name or pedigree, or in a class different from that to which such horse, colt or filly properly belongs by the rules of the society or association in which such contest is to take place. R.S.O. 1897, c. 254, s. 1. Prohibition of fraudulent entries for races.

3. The name of a horse, colt or filly, for the purpose of entry for such competition in any contest of speed, shall not be changed after having once been entered in any such contest, except as provided by the code of rules of the society or association under which the contest is conducted. R.S.O. 1897, c. 254, s. 2. Name not to be changed after entry.

4. The class to which a horse, colt or filly properly belongs, for the purpose of entry in any such contest of speed, shall be determined by the public performance of such horse, colt or filly in some former, if any, contest or trial of speed, as provided by the rules of the society or association under which the proposed contest is to be conducted. R.S.O. 1897, c. 254, s. 3. Classification of horses, etc., for purposes of contest.

5. Any person who violates any of the provisions of this Act shall incur a penalty of not less than \$50 nor more than \$200, recoverable under *The Ontario Summary Convictions Act*, except that the prosecution may be commenced within two years from the commission of the offence, and in case of non-payment of the penalty imprisonment may be imposed for a term not exceeding six months. R.S.O. 1897, c. 254, s. 4. Penalty for violation of Act.

CHAPTER 227.

An Act respecting Fraud by Debt Collectors.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Debt Collectors' Act*.

Penalty for issuing imitations of Division Court notices.

Rev. Stat. c. 63.

2. Every person, whether principal or agent, who prints or publishes any notice or form which is an imitation or a colourable imitation of any of the forms appended to *The Division Courts Act*, and which is calculated to deceive the public by inducing the belief that such notice or form is a notice or form from the said Court, or is part of the process of a Division Court, or who issues or makes use of any such notice or form in connection with any collection agency or otherwise, shall incur a penalty not exceeding \$20, for every day on which any such offence is committed, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 255, s. 1, amended.

Rev. Stat. c. 90.

9. PROTECTION OF THE PERSON.

CHAPTER 228.

An Act for the Protection of Persons Employed in the Construction of Buildings.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Buildings Trades Protection Act*. 1 Geo. V. c. 71, s. 1. Short title.

2. In this Act,

Interpre-
tation.

(a) "Building" shall include any structure roofed in or intended to be roofed in and capable when completed of affording protection and shelter;

(b) "Inspector" shall mean an inspector appointed by a municipal council or by the Lieutenant-Governor in Council for the purpose of enforcing the provisions of this Act. 1 Geo. V. c. 71, s. 2. "Inspector."

3. The council of every city, town, township and village shall, by by-law, appoint a sufficient number of competent persons to be inspectors for the purpose of enforcing the provisions of this Act in the municipality. 1 Geo. V. c. 71, s. 3. Appoint-
ment of
inspectors.

4. The Lieutenant-Governor in Council may appoint inspectors to enforce this Act in territory without municipal organization. 1 Geo. V. c. 71, s. 4. In
unorgan-
ized ter-
ritory.

5.—(1) Where any inspector appointed under this Act finds that any provision of this Act is being violated in the case of any building, he may give such orders in writing as may, in his opinion, be required to secure due compliance with such provision, and upon any such order being made and until the same is carried out the work upon that part of the building in which the default occurs shall be suspended. Power of
inspector to
give orders.

(2) Every person to whom the order of the inspector is directed who disobeys or who knowingly permits any person under his direction and control to disobey any such order or to carry on work in violation of subsection 1 before the order Penalty
for disobe-
dience.

is carried out shall incur a penalty not exceeding \$50 for every day upon which such default occurs. 1 Geo. V. c. 71, s. 5.

Protection
of persons
employed
on build-
ings.

6. In the erection, alteration, repair, improvement or demolition of any building, no scaffolding, hoists, stays, ladders, flooring or other mechanical and temporary contrivances shall be used which are unsafe, unsuitable or improper, or which are not so constructed, protected, placed and operated as to afford reasonable safety from accident to persons employed or engaged upon the building. 1 Geo. V. c. 71, s. 6.

Regula-
tions.

7. The following regulations shall be complied with in the erection, alteration, repair, improvement or demolition of every building:

Scaffolding.

1. The floors of all scaffolding whether standing or suspended from overhead shall be at least four feet wide and there shall be a railing or guard not less than three feet nor more than four feet from the flooring on the outside of the scaffolding for the protection of persons working thereon;

Suspended
scaffolding.

2. Where the scaffolding or staging is swung or suspended from an overhead support, it shall be so secured as to prevent its swaying to and fro;

Securing
scaffolding.

3. Where poles are used in scaffolding the poles shall be securely lashed at every point of contact, and where square timber is used in scaffolding the same shall be securely spiked or bolted at every point of contact;

Hoisting
lumber or
timber.

4. No lumber or timber shall be hoisted in a single sling;

Protection
of shafts
for hoists.

5. Where hoists are used for raising materials for use in buildings, the shafts or openings shall be protected at each floor by a barrier not less than three feet nor more than four feet from the level of the floor, and the barrier shall be placed not less than two feet from the edge of the shaft or opening in which the hoist is operated. 1 Geo. V. c. 71, s. 7.

Require-
ments as to
completion
of arched
floors, etc.

8.—(1) Where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are of fire-proof material, the flooring or filling in shall be completed as the building progresses to not less than within three tiers of beams below that on which the iron work is being erected.

Completion
of floor
where fire-
proof filling
not required.

(2) Where the plans and specifications do not require filling in between the beams of floors with fire-proof material or brick work, the contractor for the carpenter work, in the course of construction, shall lay the under flooring of the

building on each storey as the building progresses to not less than within two storeys below the one to which the building has been erected.

(3) Where double floors are not to be used, such contractor shall keep planked over the floor two storeys below the storey where the work is being performed.

Where double floors not used.

(4) If the floor beams are of iron or steel, the contractor for the iron or steel work of a building in course of construction or the owner of such a building shall thoroughly plank over the entire tier of iron or steel beams on which the structural iron or steel work is being erected, except such spaces as may be reasonably required for the proper construction of such iron or steel work and for the raising or lowering of materials to be used in the construction of such building, and such spaces as may be designated by the plans and specifications for stairways and elevator shafts. 1 Geo. V. c. 71, s. 8.

Where floor beams of iron or steel.

9. In the case of what are known as skeleton steel frame buildings, compliance with the following regulations shall be sufficient and it shall not be necessary to comply with the requirements of section 8:

Skeleton steel frame buildings.

1. As soon as the steel frame of a building is erected to the first column splice above the first floor level, a flooring of two inch planking shall be laid over floor beams on the floor immediately below the first column splice, making a temporary floor over that part of the area of the building inside columns at that level, except in places where it is necessary to have openings for the passage of material for building above that point; and when erection has reached a point level with the next column splice, the planking used as temporary floor at first column splice shall be removed and placed as before at second splice, and so on to the top of the building;

Temporary flooring.

2. A double flooring of two inch planking shall be laid down immediately under any derrick for a sufficient space about the derrick to protect workmen on the floors below that on which the derrick is working and to hold with safety the materials hoisted by the derrick.

Double flooring where derrick in use.

3. Rivetters' staging shall be so constructed as to secure the reasonable safety of the rivetters and a temporary floor must be provided on the girders and floor beams immediately below the portion of the floor upon which the rivetters are working, sufficient for the protection of workmen engaged below that floor.

Riveters' staging.

4. The steel work may be carried on in advance of the construction of permanent floors.

Steel work in advance of permanent flooring.

In cities
and towns.

10. In cities and towns the following regulations shall be complied with in erecting, altering, or repairing any building:

Passage
way in
front of
buildings
in course of
erection.

1. When the work is located on the line of any street or within three feet of the inside line of the sidewalk of any street, before any of the work above the sidewalk or footway is commenced, there shall be erected over the sidewalk or footway of the street a covered passageway or independent structure not less than eight feet high at the lowest side above the level of the sidewalk or footway and of sufficient strength to protect the public using the sidewalk or footway.

Barricade.

2. If a building is to be erected within seven feet of the inside line of the sidewalk on any street, a strongly constructed close-boarded fence or barricade, not less than six feet high, shall be erected along the inside line of such sidewalk.

Free passage
of water.

3. No person shall place any stone, brick, lumber, or any building material, fence, barricade or temporary sidewalk so as to obstruct the free passage of water in the drains, gutters or water courses; and the roofs of all covered ways shall be kept clear of any material whatever. 1 Geo. V. c. 71, s. 10.

Saving of
powers of
municipalities.

11. Nothing in this Act shall affect any by-law relating to the matters mentioned herein lawfully passed by a municipal council, or the authority of a municipal council to pass any such a by-law, so far as such by-law imposes additional or more stringent requirements than those imposed by this Act. 1 Geo. V. c. 71, s. 11.

Prosecutions.

12. *The Ontario Summary Convictions Act* shall apply to every prosecution under this Act. 1 Geo. V. c. 71, s. 12.

Restriction
on applica-
tion of Act.

13. Sections 7, 8 and 9 of this Act shall not apply to any building not more than two storeys in height nor to any farm building nor to any work being done upon a building by the owner or occupant thereof in person. 1 Geo. V. c. 71, s. 13.

CHAPTER 229.

An Act for the Protection of Persons Employed in Factories, Shops and Office Buildings.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

PART I.

PRELIMINARY.

Short Title.

1. This Act may be cited as *The Factory, Shop and Office Building Act*. 3-4 Geo. V. c. 60, s. 1.

Interpretation.

2. In this Act,

- (a) "Bake-shop" shall mean any building, premises, workshop, structure, room or place wherein is carried on the manufacture or sale of confectionery, or of bread, biscuits, cakes or any other food product made from flour, or from meal or from both, in whole or in part, and shall include any room or rooms used for storing the confectionery, bread, biscuits, cakes and other food products and materials; Interpretation.
"Bake-shop."
- (b) "Child" shall mean a person under the age of fourteen years;
- (c) "Court" shall mean the justices of the peace or police magistrate, as the case may be, to whom jurisdiction is given by this Act to hear and determine prosecutions under this Part; "Court."
- (d) "Employer" as applied to a factory or shop shall mean any person who in his own behalf, or as the manager, superintendent, overseer or agent has charge of any factory, shop or bakeshop and employs persons therein, and in the case of an office building shall include the superintendent, manager or caretaker thereof; "Employer."
- (e) "Factory" shall mean: "Factory."

- (i) any building, workshop, structure or premises of the description mentioned in Schedule A, together with such other buildings structures or premises as the Lieutenant-Governor in Council may by proclamation declare to be factories within the meaning of this Part,
- (ii) any other building, workshop, structure, premises, room or place wherein or within the precincts of which steam, water, electrical power or energy or other power is used to move or work any machinery employed in preparing, manufacturing or finishing, or in any process incidental to the preparing, manufacturing or finishing of any article, substance, material, fabric or compound, or is used to aid the manufacturing process carried on there,
- (iii) any other building, workshop, structure, premises, room or place wherein the employer of the persons working there has the right of access and control, and in which or within the precincts of which any manual labour is exercised by way of trade or for purposes of gain in or incidental to the making of any article or part of any article, the altering, repairing, ornamenting or finishing of any article, or the adapting for sale of any article;

"Inspector."

- (f) "Inspector" shall mean an inspector appointed by the Lieutenant-Governor in Council for enforcing the provisions of this Part and shall include the Chief Inspector;

"Mill gearing."

- (g) "Mill-gearing" shall include every shaft, whether upright, oblique or horizontal, and every wheel, drum, pulley or other appliance by which the motion of the first moving power is communicated to any machine appertaining to a manufacturing process;

"Minister."

- (h) "Minister" shall mean the member of the Executive Council charged for the time being with the administration of this Part;

"Office."

- (i) "Office" shall include a building or that part of a building occupied and under the control of a separate employer and used for office purposes;

"Office building."

- (j) "Office building" shall mean a building used or occupied for office purposes and not as a shop or factory, and shall include a part of a building when so used or occupied;

- (k) "Owner" shall mean the person for the time being "Owner." entitled in his own right or as a trustee, mortgagee in possession, guardian, committee, agent or otherwise to receive the rents, issues and profits of any premises used as a factory, shop, bake-shop or office building so far as such rents, issues and profits are not payable solely in respect of the use or occupancy of land apart from any buildings or other improvements erected or situate thereon;
- (l) "Parent" shall mean a parent or guardian of, or a "Parent." person having the legal custody of, or the control over, or having direct benefit from the wages of a child, youth or young girl;
- (m) "Regulations" shall mean regulations made by the "Regulations." Lieutenant-Governor in Council under the authority of this Part;
- (n) "Shop" shall mean any building or a portion of a "Shop." building, booth, stall or place where goods are handled or exposed or offered for sale, and any such building or portion of a building, booth, stall or place where goods are manufactured and which is not a factory to which this Act applies; but shall not include any place where the only trade or business carried on is that of a licensed hotel or tavern;
- (o) "Week" shall mean the period between midnight "Week." on Sunday night and midnight on the succeeding Saturday night;
- (p) "Woman" shall mean a woman of eighteen years "Woman." of age and upwards;
- (q) "Young girl" shall mean a girl of the age of four- "Young girl." teen and under the age of eighteen years;
- (r) "Youth" shall mean a male of the age of fourteen "Youth." and under the age of sixteen years. 3-4 Geo. V. c. 60, s. 2.

Application of Act.

3.—(1) Nothing in this Part shall in any way conflict or interfere with the powers and duties of local boards of health or the officers appointed under *The Public Health Act*.

Act not to
affect.

Rev. Stat.
c. 218.

(2) For the purposes of this Part in respect to sanitary measures the Chief Officer of Health or any health officer may act jointly with, or independently of the Inspector under this Part. 3-4 Geo. V. c. 60, s. 3.

Administra-
tion.

Act not to apply to persons working only at repairs.

4. Nothing in this Part shall extend to a mechanic, artisan or labourer working only in repairing either the machinery in or any part of a factory, shop, bakeshop or office building. 3-4 Geo. V. c. 60, s. 4.

When separate factory.

5.—(1) A part of a building used as a factory, shop, bakeshop or office building may, with the written approval of an Inspector, for the purposes of this Part be taken to be a separate factory, shop, bakeshop or office building.

Dwelling or sleeping room not part of factory.

(2) A place used as a dwelling or sleeping room only shall not be deemed to form part of a factory, shop, bakeshop or office building for the purposes of this Part.

When separate and when part.

(3) Where a place situate within the close or precincts forming a factory is solely used for some purpose other than the manufacturing process or handicraft carried on in the factory such place shall not be deemed to form part of that factory, for the purposes of this Part, but shall, if otherwise it would be a factory, be deemed to be a separate factory and be regulated accordingly.

When premises in open air not excluded.

(4) Any premises or place shall not be excluded from the definition of a factory by reason only that such premises or place are or is in the open air. 3-4 Geo. V. c. 60, s. 5.

Certain laundries to be deemed factories.

6.—(1) Every shop, building or room in which one or more persons are employed in doing public laundry work by way of trade or for the purpose of gain shall be deemed a factory to which this Part applies.

Home laundry work excepted.

(2) This section shall not apply to a dwelling in which a female is engaged in doing custom laundry work at her home for a regular family trade. 3-4 Geo. V. c. 60, s. 6.

Where not more than five employed and no power.

7.—(1) Except as otherwise expressly provided this Part shall not apply to any factory where not more than five persons are employed and no power other than manual labour is used in aid of the manufacturing process carried on there.

Where more than five sometimes employed.

(2) A factory in which in any calendar year more than five persons are employed at any one time shall during that year be deemed a factory unless the Inspector is satisfied that less than six persons are usually employed therein.

Members of family at home in shop.

(3) This Part shall not apply to any shop where only members of the employer's own family dwelling in a house to which the shop is attached are employed at home. 3-4 Geo. V. c. 60, s. 7.

Who to be deemed employed.

8.—(1) Where any owner, occupier or tenant of any premises, building, workshop, structure, room or place who has the right of access thereto and control thereof contracts for work or labour to be done therein by any other person, or lets or hires out any part thereof for that purpose, and such

other person engages or employs therein any workman, child, youth, young girl or woman in or for the carrying out or performing of such work or labour, or any part thereof, every such workman, child, youth, young girl or woman shall, for all the purposes of this Part, be deemed to be in the service and employment of such owner, occupier or tenant.

(2) In computing the number of persons employed in any place in order to ascertain if such place is a factory to which this Part applies every such workman, child, youth, young girl or woman shall be counted. 3-4 Geo. V. c. 60, s. 8. Mode of computing numbers employed.

9.—(1) Every person found in a factory, except at meal times or except while all the machinery of the factory is stopped, or for any other purpose than that of bringing food to the persons employed in the factory, shall, until the contrary is proved, be deemed for the purposes of this Part to have been then employed in the factory. Evidence as to employment.

(2) Yards, playgrounds and places open to public view, waiting rooms and other rooms belonging to the factory in which no machinery is used or manufacturing process carried on shall not be taken to be part of the factory for the purposes of this section. 3-4 Geo. V. c. 60, s. 9. Yards and places not part of factory.

10.—(1) A child, youth, young girl or woman who works in a factory, whether for wages or not, either in a manufacturing process or handicraft, or in cleaning any part of the factory used for any manufacturing process or handicraft, or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to or connected with the manufacturing process or handicraft, or connected with the article made, or otherwise the subject of the manufacturing process or handicraft therein shall, save as is herein otherwise provided, be deemed to be employed in such factory. When a child, youth, young girl, or woman to be deemed employed.

(2) For the purpose of this section an apprentice shall be deemed to work for hire. 3-4 Geo. V. c. 60, s. 10. Apprentices.

11.—(1) In every factory and shop the employer shall keep a register of the children, youths, young girls and women employed in the factory and shop and of their employment, Forms 1 and 2 in Schedule B, and shall send to the Inspector such extracts from any register kept in pursuance of this Part as the Inspector from time to time requires for the execution of his duties, and shall permit the Inspector at all times to inspect such register. Register of children.

(2) For every contravention of this section the employer shall incur a penalty not exceeding \$30. 3-4 Geo. V. c. 60, s. 11. Penalty.

12.—(1) On the first page of every register kept by an employer pursuant to this Part, or to the regulations made by the Lieutenant-Governor in Council, shall be printed the Form 4 to be printed on first page of register.

Form 4 in Schedule B, and the same shall be properly filled up and signed by the Inspector and the employer when such register is commenced to be kept.

Forms of notice may be altered or modified.

(2) The forms of notice mentioned in Schedule B may be altered or modified by regulation of the Lieutenant-Governor in Council. 3-4 Geo. V. c. 60, s. 12.

Who to be deemed employer of children, etc., in certain cases.

13. Where, in a factory or shop, the owner or hirer of a machine or implement moved by steam, water, electrical power or energy or other power in or about or in connection with which machine or implement any child, youth, young girl or woman is employed, is some person other than the employer, and such child, youth, young girl, or woman is in the employment and pay of the owner or hirer of such machine or implement he shall, so far as respects any offence against this Part which may be committed in relation to such child, youth, young girl or woman, be deemed to be the employer. 3-4 Geo. V. c. 60, s. 13.

Plans to be submitted to Inspector.

14. Before erecting any building or altering any existing building which it is intended thereafter to use as a factory the owner shall submit the plans of such building or of the proposed alterations to the Inspector; and the Inspector shall examine the same, and if he finds that the plans provide for the fulfilment of the requirements of this Act as to the construction of factories, he shall certify his approval thereon, and the owner shall not proceed with the erection or alteration of such building without such approval. 3-4 Geo. V. c. 60, s. 14.

Certificate of inspection before operating factory.

15.—(1) The owner, proprietor or manager of any factory shall not begin operations until he has received from the Inspector a certificate of inspection of the factory and a permit to operate the same.

Penalty.

(2) Any person who contravenes the provisions of this section shall incur the penalties provided for in section 72. 3-4 Geo. V. c. 60, s. 15.

Notice to be sent to inspector by person occupying factory.

16. Every person shall, within one month after he begins to occupy a factory, transmit to the Inspector a notice, Form 7, Schedule B, containing the name of the factory, the place where it is situate, the address to which he desires his letters to be addressed, the nature of the work, the nature and amount of the moving power therein, and the name of the firm under which the business of the factory is to be carried on, and in default shall incur a penalty not exceeding \$30. 3-4 Geo. V. c. 60, s. 16.

Penalty.

ADMINISTRATION.

Power of Lieutenant-Governor in Council.

17. The Lieutenant-Governor in Council may for the purpose of carrying out this Part

(a) appoint as many Inspectors, male or female, as may be deemed necessary, one of whom he may designate as Chief Inspector who shall have the general supervision and direction of the other Inspectors and of the carrying out of the provisions of this Part;

Appointment of Inspector and Chief Inspector.

(b) make such regulations for carrying out the provisions of this Part as may be deemed necessary.

Regulations for carrying out provisions of Act.
3-4 Geo. V. c. 60, s. 17.

18.—(1) Every Inspector may, in the execution of this Act and for enforcing the Regulations,

Powers of inspector.

(a) enter, inspect and examine at all reasonable times by day or night any factory, shop, bakeshop or office building when he has reasonable cause to believe that any person is employed therein, and enter by day any place which he has reasonable cause to believe is a factory, shop, bakeshop or office building;

Inspection at reasonable times.

(b) require the production of any register, certificate, notice or document required by this Part to be kept, and inspect, examine and copy the same;

Require production of registers, etc.

(c) take with him a constable into a factory, shop, bakeshop or office building in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty;

Take constable with him.

(d) make such examination and enquiry as may be necessary to ascertain whether the provisions of this Part are complied with so far as respects the factory, shop, bakeshop or office building and the persons employed therein;

Make-examination and enquiry.

(e) examine either alone or in the presence of any other persons, as he thinks fit, with respect to matters under this Part, every person whom he finds in a factory, shop, bakeshop or office building, or whom he has reasonable cause to believe to be, or to have been within the two preceding months, employed in a factory, shop, bakeshop or office building, and require such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined;

Examine persons.

(f) for the purpose of any investigation, inquiry or examination made by him under the authority of this Part, administer an oath to and summon any person to give evidence;

Administer oaths.

(g) exercise such other powers as may be necessary for carrying out the provisions of this Part.

Exercise other powers.

Duty of
owner and
employer.

(2) The owner and employer and his or their agents and servants shall furnish all necessary means in his or their power required by the Inspector for any entry, inspection, examination, inquiry or the exercise of his powers in relation to such factory, shop, bakeshop or office building.

Obstructing
Inspector.

(3) Every person who wilfully delays the Inspector in the exercise of any power under this section, or who fails to comply with a requisition or summons of the Inspector in pursuance of this section, or to produce any certificate or document which he is required by or in pursuance of this Act to produce, or who conceals or attempts to conceal, or prevents or attempts to prevent a child, youth, young girl or woman from appearing before or being examined by the Inspector shall be deemed to obstruct an Inspector in the execution of his duties under this Part.

Penalty for
obstructing.

(4) Where the Inspector is obstructed in the execution of his duties the person obstructing him shall incur a penalty not exceeding \$30; and where he is so obstructed in a factory, shop, bakeshop or office building the employer shall incur a penalty not exceeding \$30 or where the offence is committed at night \$100. 3-4 Geo. V. c. 60, s. 18.

Certificate
of appoint-
ment.

19. Every Inspector shall be furnished with a certificate of his appointment under the hand and seal of the Minister and on applying for admission to any premises shall, if required, produce such certificate. 3-4 Geo. V. c. 60, s. 19.

Production.

Inspector
may take
medical
practitioner
etc., into
factory.

20. The Inspector, whenever he deems it necessary, may take with him into any premises a legally qualified medical practitioner, medical officer of health or sanitary inspector. 3-4 Geo. V. c. 60, s. 20.

Warrant for
entering
dwelling
without con-
sent of
occupier.

21.—(1) The Inspector, before entering, in pursuance of the powers conferred by this Part without the consent of the occupier, any room or place actually used as a dwelling, shall obtain such warrant as is hereinafter mentioned from a justice of the peace.

Issue of
warrant.

(2) The justice, if satisfied by information on oath that there is reasonable cause to suppose that any provision of this Part is contravened in any such room or place, shall grant a warrant under his hand authorizing the Inspector named therein, at any time not exceeding one month from the date thereof, to enter the room or place named in the warrant and exercise therein the powers of inspection and examination conferred by this Act; and the provisions of this Part with respect to obstruction of the Inspector shall apply. 3-4 Geo. V. c. 60, s. 21.

When
Inspector
may object
to give
evidence.

22. Where an Inspector is called as a witness he may, by the direction and on behalf of the Attorney-General or of a member of the Executive Council, object to giving evidence

as to any premises inspected by him in the course of his duty.
3-4 Geo. V. c. 60, s. 22.

23.—(1) There shall be affixed at the entrance of a factory and in such other convenient parts of every factory, shop, bakeshop and office building as the Inspector directs, and be constantly kept so affixed in the form directed by the Inspector and in such position as to be easily read by the persons employed—

- (a) such notices of the provisions of this Part and of any regulations made thereunder as the Inspector deems necessary to enable the persons employed to become acquainted with their rights, liabilities and duties under this Part; Of provisions of Act and regulations.
- (b) a notice of the name and address of the Inspector; Name and address of Inspector.
- (c) in the case of a factory a notice of the clock, if any, by which the period of employment and times for meals in the factory are regulated; Clock by which period of employment is regulated.
- (d) every other notice and document required by this Part to be so affixed. Other notices.

(2) In the event of a contravention of any provision or requirement of this section the employer shall incur a penalty not exceeding \$20; and any person who pulls down, alters or defaces any such notice shall incur a like penalty. 3-4 Geo. V. c. 60, s. 23. Penalty.

24.—(1) Any notice, order, requisition, summons or document required or authorized to be served or sent for the purposes of this Part may be served or sent by delivering the same to or at the residence of the person on or to whom it is to be served or sent, or where that person is an employer by delivering the same, or a true copy thereof, to his agent or to some person in the factory, shop, bakeshop or office building of which he is employer. Notices, etc., and mode of service. By delivering same.

(2) Such notice, order, requisition, summons or document may also be served or sent by post, and if so served or sent shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to prove that it was properly addressed and mailed; and where it is required to be served on or sent to an employer it shall be deemed to be properly addressed if addressed to the factory, shop, bakeshop or office building in respect of which he is employer, with the addition of the proper postal address, but without naming the employer. 3-4 Geo. V. c. 60, s. 24. By mailing.

EMPLOYMENT.

Children, Youths, Young Girls and Women.

Child not to be employed except as in sec. 26.

25. No child shall be employed in any factory except in the business of canning or desiccating fruits or vegetables or the work incidental thereto as provided in section 26. 3-4 Geo. V. c. 60, s. 25.

Employment of children in gathering and preparing fruits and vegetables for canning or desiccating purposes.

26. A child between the ages of twelve and fourteen years and, when employed solely out of doors, a child under twelve years of age may, notwithstanding anything contained in this Part, be employed from the 15th day of June to the 15th day of September, both inclusive, in such gathering and preparation of fruits or vegetables for canning or desiccating purposes as may be required to be done prior to the operation of cooking or other process requisite in connection with the canning or desiccating of fruits or vegetables. 3-4 Geo. V. c. 60, s. 26.

Person under twelve not to be employed in shop. Prohibiting employment of young girls and youths.

27. No person under twelve years of age shall be employed in any shop. 3-4 Geo. V. c. 60, s. 27.

28. The Lieutenant-Governor in Council may by proclamation prohibit the employment of young girls and youths in factories the work in which he deems dangerous or unwholesome. 3-4 Geo. V. c. 60, s. 28.

Children not to be employed in shops during school hours. Rev. Stat. c. 274.

29. No child shall be employed in any shop during school hours unless such child shall have furnished to the employer a certificate issued in accordance with the provisions of *The Truancy Act* permitting the absence of the child from school, and such certificate shall be kept on file by the employer and produced whenever called for by the Inspector. 3-4 Geo. V. c. 60, s. 29.

Seats to be provided for female employees.

30.—(1) In any shop in which young girls or women are employed the employer shall at all times provide and keep therein a sufficient and suitable chair or seat for the use of every such young girl or woman, and shall permit her to use such chair or seat when not necessarily engaged in the work or duty for which she is employed; and the employer shall not by any open or covert threat, rule or other intimation, expressed or implied, or by any contrivance, prevent any female employee from using such chair or seat.

Penalty.

(2) Any person who contravenes any of the provisions of this section shall incur a penalty of not less than \$10 nor more than \$25. 3-4 Geo. V. c. 60, s. 30.

Where cooking, etc., in connection with canning carried on to be separate from factory, etc.

31. The place, room or apartment in which a child is employed under the provisions of section 26 shall be separate from any other wherein the cooking or other process in connection with or in the canning or desiccating of fruits or vegetables is carried on. 3-4 Geo. V. c. 60, s. 31.

Hours of Employment.

32. Except as provided in sections 33, 34 and 35, in a fac- Generally.
tory or shop

- (a) no child, youth, young girl or woman shall be em-^{Total}
ployed for more than ten hours in one day, unless ^{length,}
a different apportionment of the hours of labour ^{daily.}
per day has been made for the sole purpose of
giving a shorter day's work on such day of the
week as may be arranged; nor shall any such per- ^{And}
son be so employed for more than sixty hours in ^{weekly.}
any one week;
- (b) the hours of labour for any such person in any one ^{Hours of}
day shall not be earlier than seven o'clock in the ^{labour.}
forenoon or later than half-past six o'clock in the
afternoon in a factory or six o'clock in the after-
noon in a shop unless a special permit in writing is
obtained from the Inspector;
- (c) no child, youth, young girl or woman who has been ^{Employment}
previously on any day employed in any factory ^{in two}
or shop for the number of hours permitted by this ^{different}
Part shall, to the knowledge of the employer, be ^{places.}
employed on the same day in any other factory or
shop, and no such person who has been so em-
ployed in a factory or shop for less than such num-
ber of hours shall be employed in any other fac-
tory or shop on the same day for a longer period
than will complete such number of hours;
- (d) the employer shall allow every child, youth, young ^{Time for}
girl or woman not less than one hour at noon of ^{meals.}
each day for meals, and such hour shall not be
counted as part of the time herein limited for the
employment of any such person. 3-4 Geo. V. c. 60,
s. 32.

33. A child between twelve and fourteen years of age and ^{Hours of}
a youth, young girl or woman may be employed in a shop ^{employment}
between the hours of seven o'clock in the morning and ten ^{from}
o'clock in the afternoon on Saturday and the day next before ^{December}
a statutory holiday, and during the period from the 14th day ^{14 to 24.}
of December to the 24th day of December, both inclusive, in
each year. 3-4 Geo. V. c. 60, s. 33.

34.—(1) Subject to the Regulations, where

- (a) any accident which prevents the working of a fac- ^{Exemption}
tory happens to the motive power; or ^{by Inspec-}
^{tor.}
- (b) from any other occurrence beyond the control of the ^{Machinery}
employer the machinery, or any part of the ^{unwork-}
machinery, of any factory cannot be regularly ^{able.}
worked; or

Customs or exigencies of trade.

- (c) the customs or exigencies of trade require that the youths, young girls or women working in a factory, or in certain processes in a factory, shall be employed for longer than the prescribed period,

the Inspector may, on proof to his satisfaction of such accident, occurrence, custom or exigency of trade, give permission in writing for such exemption from the observance of the foregoing provisions as will, in his judgment, fairly and equitably to the employers of, and to the youths, young girls and women in such factory, make up for any loss of labour from such accident or occurrence or meet the requirements of such custom or exigency of trade;

Hours of employment during period of exemption.
Not before 6 a.m. and after 9 p.m.

- (2) If the Inspector permits such exemption

- (a) no youth, young girl or woman shall be employed before the hour of six o'clock in the morning nor after the hour of nine o'clock in the afternoon;

Not more than 12 1/2 hours a day or 72 a week.

- (b) the hours of labour for youths, young girls and women shall not be more than twelve and a half in any one day nor more than seventy-two and a half in any one week;

Period of exemption.

- (c) such exemption shall not comprise more than thirty-six days in the whole in any twelve months; and in reckoning such period of thirty-six days every day on which the youth, young girl or woman has been employed overtime shall be taken into account;

Time for additional meal during period of exemption.

- (d) during the continuance of such exemption, in addition to the hour for the noonday meal, there shall be allowed to every youth, young girl or woman so employed in the factory on any day to an hour later than seven of the clock in the afternoon not less than forty-five minutes for another meal between five and eight of the clock in the afternoon; and

Notice of particulars of exemption.

- (e) in every factory with respect to which any such permission for exemption is given there shall, in compliance with the provisions of section 23, be affixed a notice specifying the extent and particulars of such exemption. 3-4 Geo. V. c. 60, s. 34.

Employment of women in factories for canning or desiccating fruit from July to October.

35.—(1) Women may be employed to a later hour than half-past six o'clock in the afternoon during the months of July, August, September and October in a factory where the only work or operations carried on relate to and are exclusively such as may be necessary for the canning or desiccating of fruits or vegetables and the preparation thereof for that purpose.

(2) No woman shall be so employed to a later hour than nine o'clock in the afternoon for more than twenty days in the whole, and in reckoning such twenty days every day on which she has been so employed to a later hour than nine o'clock in the afternoon shall be counted. Women not to be employed later than 9 p.m. nor more than 20 days.

(3) Where a woman is so employed on any day to a later hour than seven o'clock in the afternoon she shall, in addition to the hour for the noonday meal provided for by section 32, be allowed not less than forty-five minutes for another meal between five and eight of the clock in the afternoon. 3-4 Geo. V. c. 60, s. 35. Meals when working overtime.

36. The hours of labour for a child between twelve and fourteen years of age in a canning factory shall be limited to the time between seven o'clock in the forenoon and six o'clock in the afternoon, or such other hours of the day as may be permitted by the Inspector; but no such child shall be allowed to work more than ten hours in any one day. 3-4 Geo. V. c. 60, s. 36. Hours of labour for child in canning factory.

37. Where any youth, young girl or woman is employed in any factory for a longer period, or until a later hour than is prescribed by sections 34 and 35, the duration of such employment shall be daily recorded by the employer in a register, Form 3 of Schedule B, or in such other form as may be prescribed by the Regulations. 3-4 Geo. V. c. 60, s. 37. Particulars to be recorded by employer in case of exemption.

38. Notice of the hours between which children, youths, young girls or women may be employed in a factory shall be in Form 5, Schedule B, or in such other form as may be prescribed by the Regulations, and shall be signed by the Inspector and by the employer, and shall be posted up during the period covered by such notice in such conspicuous place or places in the factory as the Inspector requires. 3-4 Geo. V. c. 60, s. 38. Notice of hours of employment to be affixed in factory.

Meals on Premises.

39. In a factory or shop in which any child, youth, young girl or woman is employed, Taking meals where manufacturing going on.

(a) if the Inspector so directs in writing the employer shall not allow any such person to take meals in any room in which any manufacturing process is then being carried on;

(b) after being directed by the Inspector in writing so to do the employer shall, at his own expense, provide a suitable room or place in the factory or shop or in connection therewith for the purposes of a dining and eating room for persons employed in the factory or shop, no part of the expense of Providing dining and eating rooms.

which shall be payable by or chargeable to the wages of the employees;

Food not to be taken in room where poisonous substances exposed.

- (c) no person shall take or be allowed to take food into any room where paint, varnish, dye, white lead, arsenic or any other poisonous substance is exposed, or where deleterious fumes, dust or gases are known to be present, and drinking water in any such room shall be taken directly from taps or suitably closed receptacles. 3-4 Geo. V. c. 60, s. 39.

Unlawful employment in contravention of ss. 32 to 36.

40. Where a child, youth, young girl or woman is employed in a factory or shop in which there is a contravention of any of the provisions of sections 32 to 36, or of any regulation made under section 34, such child, youth, young girl or woman shall be deemed to be unlawfully employed and so that his or her health is likely to be injured. 3-4 Geo. V. c. 60, s. 40.

HEALTH AND SAFETY.

Sanitary Regulations.

Conveniences for employees.

41.—(1) The owner of every building used as a factory, shop or office building shall

Providing privies and water-closets.

- (a) provide a sufficient number and description of privies, earth or water-closets and urinals for the employees of such factory, shop or office building, including separate sets for the use of male and female employees with separate approaches thereto, one closet for every 25 persons of each sex employed in the factory, shop or office building, and shall keep at the entrance to such closet a clearly painted sign indicating for which sex the closets are provided;

Remedying cause of effluvia.

- (b) be responsible for the remedying of any effluvia arising from any drain or defective plumbing and for any repairs required to keep the building in a safe and habitable condition;

Supplying drinking water.

- (c) arrange for a supply of pure drinking water available for each occupier.

Regulations.

(2) The Lieutenant-Governor in Council may prescribe such additional regulations with respect to such conveniences as may be deemed proper.

Contravention.

(3) The owner of every factory, shop or office building who for thirty days, or such extended period as the Inspector in writing allows, refuses or neglects to comply with the requirements of subsection 1 or of the Regulations after being notified in writing in regard to the same by the Inspector,

shall incur a penalty of not more than \$500 and in default of payment shall be liable to imprisonment for any period of not more than twelve months. 3-4 Geo. V. c. 60, s. 41.

42. A factory, shop or office building in which a contravention of the regulations made by The Hydro-Electric Power Commission of Ontario under *The Power Commission Act* occurs shall be deemed to be kept so that the safety of the persons employed therein is endangered. 3-4 Geo. V. c. 60, s. 42.

Penalty.
Contraven-
tion of regu-
lations of
Hydro-
Electric
Power Com-
mission.
Rev. Stat.
c. 89.

43.—(1) The employer of every factory or shop shall

Sanitary
regulations.

- (a) keep it in a clean and sanitary condition and free from any effluvia arising from refuse of any kind; Factory or
shop.
Effluvia
from refuse.
- (b) keep privies, earth or water-closets and urinals in good repair and in a sanitary condition, and keep closets separated for male and female employees, and provide conveniences to the satisfaction of the Inspector for the employees using them; Privies and
water-
closets.
- (c) heat the premises throughout and regulate the temperature so as to be suitable for the work to be performed therein, and not to be injurious to the health or comfort of the employees; but in no case shall the temperature be less than 60 degrees Fahrenheit unless authorized by the Inspector in writing; Tempera-
ture.
- (d) ventilate the factory or shop in such a manner as to keep the air reasonably pure and so as to render harmless, as far as reasonably practicable, all gases, vapours, dust or other impurities generated in the course of any manufacturing process or handicraft carried on therein that may be injurious to health; Ventilation.
- (e) not allow overcrowding while work is carried on therein so as to be injurious to the health of the persons employed therein, the standard to be allowed being 300 cubic feet of room space for each employee; Overcrowd-
ing.
- (f) provide a wash-room, clean towels, soap and a sufficient supply of wholesome drinking water and proper drinking cups for employees, and water-taps which shall be at least eight feet distant from any water-closet or urinal, and also, in the case of a foundry, shower baths for the employees; and Wash-
rooms,
drinking
cups, etc.
- (g) if the manufacturing process carried on in any part of the premises renders the floor liable to be wet to such an extent that the health of any person Damp floors.

employed therein is likely to be endangered see that adequate means are provided for the proper draining of such floors.

Spittoons.

(2) The Inspector may require the employer of any factory or shop to provide a sufficient number of spittoons and place the same in different parts of the premises and keep the same clean.

Dust.

(3) In every factory or shop where any process is carried on by which dust is generated and is inhaled by the workers to an injurious extent, then, subject to the Regulations, the Inspector may, if such inhalation can by mechanical means be prevented or partially prevented, direct that such means shall be provided within a reasonable time by the employer who shall be bound so to provide them.

Grinding, polishing or buffing.

(4) Where grinding, polishing or buffing is carried on in any factory or shop subsection 3 shall apply irrespective of the number of persons employed therein.

Employment of persons affected with disease.

(5) No employer shall knowingly permit or suffer any person to work in a factory or shop in which food or food products or materials are manufactured, stored or kept for sale or sold, who is affected with pulmonary tuberculosis or with scrofula, or with any venereal disease or with any communicable skin disease, and every employer shall keep himself and his employees in a reasonably healthy condition.

Contravention.

(6) The employer of a factory or shop who for thirty days refuses or neglects to comply with the requirements of this section or with the Regulations after being notified in writing in regard to the same by the Inspector shall incur a penalty of not more than \$500 and in default of payment shall be liable to imprisonment for a period of not more than twelve months. 3-4 Geo. V. c. 60, s. 43.

Sanitary regulations.
Office.
Office to be kept clean and sanitary.

44.—(1) Every employer of an office shall

(a) see that the office is kept in a clean and sanitary condition and properly ventilated, heated and lighted so as not to be injurious to the health or comfort of the persons employed therein;

No overcrowding.

(b) not allow overcrowding so as to be injurious to the health of the persons employed therein;

Towels, soap, drinking water and cups.

(c) provide a supply of clean towels, soap and a sufficient supply of wholesome drinking water and proper drinking cups for the persons employed therein.

Office building.

(2) Where in an office building the privies, closets or urinals or other conveniences are not situate in that part of the building occupied by and under the control of an employer it shall be the duty of the owner, and where such conveniences

Conveniences.

are situate in that part of the building occupied by and under the control of a separate employer, it shall be the duty of such employer to keep the same in good repair and in a sanitary condition.

(3) The owner of every office building shall at all times keep the same or such parts thereof as are used in common by the tenants or occupants thereof and are under his control in a clean and sanitary condition, and so as not to be injurious to the health of persons employed in the building or using or having access to the same. Clean and sanitary condition.

(4) Every owner or employer who, for thirty days or for such extended period as the Inspector allows, refuses or neglects to comply with the requirements of this section after being notified in writing in regard to the same by the Inspector shall incur a penalty not exceeding \$500 and in default of payment shall be liable to imprisonment for any period of not more than twelve months. 3-4 Geo. V. c. 60, s. 44. Penalty.

45. Where an owner is required by or under the provisions of this Act to do anything which as between him and his tenant it is not his but the tenant's duty to do, he shall be entitled to recover from the tenant the amount of any expenditure incurred in doing it. 3-4 Geo. V. c. 60, s. 45. Recovery by owner from tenant of expenditures.

46. Where two or more persons occupy or use the same room or premises as a factory and employ in the aggregate six persons or more, no one of them employing so many as six, such room or premises shall for the purposes of sections 41 and 43 be deemed a factory to which this Part applies. 3-4 Geo. V. c. 60, s. 46. Case of premises occupied by two persons.

47. Without the written consent of the Inspector no part of a factory shall be kept or used as a bedroom or sleeping place. 3-4 Geo. V. c. 60, s. 47. Restrictions as to sleeping places.

48. The provisions of section 47 shall not apply to a laundry in which not more than five persons are employed. 3-4 Geo. V. c. 60, s. 48. Exception as to laundries.

49. No public laundry work shall be done in a room used for a sleeping or living room or in a room used for cooking or preparing meals. 3-4 Geo. V. c. 60, s. 49. Laundry work not to be done in sleeping or living room.

50. The provisions of section 49 shall not apply to a female engaged in doing custom laundry work at her home for a regular family trade. 3-4 Geo. V. c. 60, s. 50. Certain laundresses excepted.

51. A stable shall not be kept or used under the same roof as a factory or bakeshop unless there is between the stable and the factory or bakeshop a sufficient brick or other partition wall approved by the Inspector separating the one from the other. 3-4 Geo. V. c. 60, s. 51. Restrictions as to stables.

Clothing Manufacturers.

Register of name and addresses of persons to whom work or material given.

52.—(1) Every person contracting for the manufacture of any garment, article of clothing or wearing apparel or any part thereof, or giving out the same to be wholly or partially altered or improved, or giving out for manufacture, alteration or improvement material from which the same are to be made up or completed, shall keep a written register of the name and address serially numbered of every person so contracted with or to whom any such garment, article or material is so given out, and of the places where the work is to be done.

Articles altered, etc., to have label attached.

(2) The register shall at all times be open to inspection by the Inspector, and the person required to keep it shall furnish a copy of the register to the Inspector whenever demanded by him.

Permission to sell by the inspector.

(3) No person shall knowingly sell or expose for sale any of the garments or articles mentioned in this section and made in any dwelling house, tenement house or building forming part of or in the rear of a tenement or dwelling house without a permit from the Inspector stating that the place of manufacture is thoroughly clean and otherwise in a good sanitary condition.

Permit to state maximum number employed, and may be revoked.

(4) Such permit shall state the maximum number of persons allowed to be employed upon the premises and shall not be granted until an inspection thereof has been made by the Inspector; and the permit may be revoked by the Inspector at any time if, in his opinion, the protection of the health of the community or of those so employed upon the premises renders such revocation desirable.

Articles in unclean or unhealthy condition to be impounded.

(5) When any such garment or article is found by the Inspector to be made under unclean or unhealthy conditions, or upon any premises not entered on the register, he shall seize and impound the same and affix thereto a label bearing the words "unsanitary" printed on a tag not less than four inches in length; and shall immediately notify the local board of health whose duty it shall be to disinfect it and thereupon remove such label.

Articles to be returned after being disinfected.

(6) The owner of any such garment or article shall be entitled after it has been disinfected to have the same returned to him upon first paying the expense of such seizure and disinfection.

Inspector to report unclean or unhealthy conditions to local board of health.

(7) If the Inspector finds evidence of unclean or unhealthy conditions, or infectious or contagious disease present in any workshop or in any tenement or dwelling where any of the garments or articles hereinbefore mentioned are made, altered or improved, or in any goods manufactured or in process of manufacture on such premises, he shall forthwith report the facts to the local board of health which shall forthwith make

such order as the public health may require, or may condemn and destroy all such garments or articles, or any garment or article made, altered or improved or in process of manufacture under unclean or unsanitary conditions. 3-4 Geo. V. c. 60, s. 52.

Female Employees—Mode of Wearing Hair.

53.—(1) Young girls and women in a factory shall, during working hours, wear their hair rolled or plaited and fastened securely to their heads or confined in a close-fitting cap or net so as to avoid contact with machinery, shafting or belting or with the material being handled. Female employees regulations as to mode of wearing hair.

(2) The manager, superintendent, foreman or other person in charge shall see that employees are fully notified of the provisions of this section. Notification. 3-4 Geo. V. c. 60, s. 53.

Machinery in Motion.

54.—(1) A child shall not be allowed to clean any part of the machinery in a factory while the same is in motion. Cleaning:—child;

(2) A youth, young girl or woman shall not be allowed to clean such part of the machinery in a factory as is mill-gearing while the same is in motion. Youth, young girl or woman.

(3) A child or a young girl shall not be allowed to work between the fixed and traversing part of any self-acting machine while the machine is in motion. Working:—Child or young girl.

(4) A child, youth, young girl or woman allowed to clean or work in contravention of this section shall be deemed to be employed contrary to the provisions of this Part. Penalty. 3-4 Geo. V. c. 60, s. 54.

Guarding Machinery.

55.—(1) In every factory

(a) all mill-gearing, vats, pans, cauldrons, reservoirs, wheel races, flumes, water-channels, openings and doors opening in the floors or walls, bridges and dangerous machinery, shafting, or belting, and all other dangerous structures and places shall be as far as practicable securely fenced or guarded; Guarding dangerous places.

(b) no machinery other than steam engines shall be cleaned while in motion if the Inspector gives written notice to the employer to that effect; Cleaning machinery.

(c) any matter or thing which the Lieutenant-Governor in Council by regulation requires to be fenced or guarded shall be securely and safely guarded; Matters or things required by the regulations to be guarded.

Notice by
inspector.

(d) any other matter or thing which the Inspector considers dangerous, and in regard to which he gives notice in writing to that effect to the employer, shall likewise be securely fenced or guarded to the satisfaction of the Inspector.

Regulations.

(2) The Lieutenant-Governor in Council may make regulations prescribing the manner in which any of the matters or things mentioned in subsection 1 shall be fenced or guarded, and the class of fence or guard to be used on any such machinery or about any such structure or place in any factory or class of factories, and for such further precautions to be taken with respect to the matters mentioned in subsection 1 as he may deem necessary for preventing loss of life or personal injury.

Contraven-
tion.

(3) A factory in which a contravention of this section or of the regulations made thereunder occurs shall be deemed to be kept so that the safety of the persons employed therein is endangered. 3-4 Geo. V. c. 60, s. 55.

Storage of
coal oil, etc.

56.—(1) Where coal oil, petroleum, benzine, naphtha, gasoline or explosives of any kind or any combustible or inflammable material are kept or stored in a factory or shop they shall be kept stored when not in actual use in a building separate from the other parts of the factory or shop, or in a fireproof compartment of the factory or shop which shall be approved of by the Inspector.

Other in-
flammable
material
and maxi-
mum dealt
with by reg-
ulations.

(2) The Lieutenant-Governor in Council may add to the articles mentioned in subsection 1 any inflammable or combustible material to which he deems it expedient that the provisions of subsection 1 should apply, and he may also prescribe the maximum quantity of any of the articles mentioned in subsection 1 or in the Regulations which may at any time be in actual use in the factory or shop.

Contraven-
tion.

(3) A factory or shop in which a contravention of this section or of any regulations made thereunder occurs shall be deemed to be kept so that the safety of the persons employed therein is endangered. 3-4 Geo. V. c. 60, s. 56.

Boiler Insurance and Inspection.

Boiler insur-
ance and
inspection.

57.—(1) In a factory, shop or office building no boiler shall be used that is not insured in some boiler insurance company registered in the Department of Insurance, or that has not been inspected within one year by a competent person who has had charge of a boiler and engine for a period not less than five years or who holds a certificate as a stationary engineer; and the owner or employer shall, whenever so requested by the Inspector, produce for examination the insurance policy or certificate of inspection.

(2) Every such boiler insurance company shall annually, on the 30th day of November, transmit to the Chief Inspector a report of the boilers in Ontario insured by it; and when an insurance is cancelled the company shall forthwith give notice thereof to the Chief Inspector.

(3) Whenever the Inspector is of opinion that a boiler in use in any factory, shop or office building is in such a condition or is so located or operated as to be dangerous to life or property, he may by written notice to the owner and employer direct that the use of the boiler shall be discontinued until it has been inspected by some competent person approved by the Inspector, and a certificate has been given by him that the boiler may be safely operated.

(4) A factory, shop or office building in which a boiler is used in contravention of the requirements of this section or after such notice from the Inspector and before a certificate has been given as provided by subsection 3 shall be deemed to be kept so that the safety of the persons employed therein is endangered. 3-4 Geo. V. c. 60, s. 57.

Elevators and Hoists.

58.—(1) Subject to the Regulations, in every factory, shop and office building

- (a) the openings of the hoistway, hatchway and well-hole used for every power elevator shall, at each floor including the basement, be provided with and protected by good and sufficient trap doors or self-closing hatches or, in the case of an elevator not operated by hand power, by gates closing automatically not less than five feet six inches high and which may be made in sections;
- (b) the sides of the shafts on all floors including the basement not guarded by gates shall be protected by enclosures at least six feet high, approved by the Inspector;
- (c) where any elevator is enclosed in a tower having walls over six inches thick it may be provided with an extra operating rope outside the tower;
- (d) in every case the elevator must be provided with a lock to secure the operating rope;
- (e) where an elevator is operated by hand power the gates shall not be less than three feet in height and shall be automatic closing gates, and the sides not protected by gates shall be protected by enclosures not less than four feet in height approved by the Inspector;

- (f) a sign on which the word "Dangerous" in letters not less than four inches in height is clearly painted shall be affixed or stencilled on the bottom rail of every gate where it will be plainly visible from the outside;
- (g) the top of every elevator platform shall be provided with a sufficient guard to protect the occupants, approved by the Inspector;
- (h) every elevator, whether used for freight or passengers, shall be provided with some suitable mechanical device to be approved by the Inspector whereby the car or cab will be stopped and held in case of accident to the elevator or to the machinery or appliances connected therewith.

Regulations prescribing additional requirements.

(2) The Lieutenant-Governor in Council may by regulation prescribe such requirements in addition to or in substitution for the requirements of subsection 1 with respect to the use of elevators and hoists in factories, shops or office buildings, or in any class of factories, shops or office buildings.

Penalty for contravention.

(3) Every owner or employer who after notice from the Inspector uses or permits to be used any elevator or hoist in respect of which the provisions of this section are not complied with shall incur a penalty not exceeding \$500 and in default of payment thereof shall be liable to imprisonment for any period not exceeding twelve months.

Rights of municipal councils preserved. Rev. Stat. c. 192.

(4) Nothing in this section shall take away or interfere with the powers possessed by municipal councils under *The Municipal Act* in respect of hoists or elevators. 3-4 Geo. V. c. 60, s. 58.

Fire Prevention and Protection.

Prevention and protection from fire as required by Inspector under regulations. Main doors to open outwardly.

59.—(1) In every factory, shop or office building there shall be such means of prevention and protection from fire and of extinguishing fire as the Inspector, acting under the Regulations, directs in writing.

(2) In every factory and office building and in every shop in which more than fifteen persons are employed at any time during the year the main inside and outside doors for the use of the employees shall open outwardly, and any door leading to or being the principal or main entrance for employees or leading to any tower stairway or fire-escape shall not be bolted, barred or locked at any time during the ordinary and usual working hours.

Fire escape appliances.

(3) The owner of every factory, shop or office building over two storeys in height, and where deemed necessary by the Inspector, the owner of every factory, shop or office build-

ing over one storey in height, shall provide one or more systems of fire escape and shall keep the same in good repair and to the satisfaction of the Chief Inspector, as follows:

- (a) a sufficient number of tower stairways with iron doorways within reach of or having easy communication with all the working rooms; Tower stairways and iron doorways.
- (b) a sufficient number of iron or other unflammable fire escapes on the outside of the building consisting of stairways with railing or, if the approval of the Inspector is given in writing then of iron ladders; and every such stairway or ladder shall be connected with the interior of the building by iron or tinned doors or windows with iron shutters, and shall have suitable landings at every storey including the attic if the attic is occupied as a workroom, and the stairways shall start at a distance of not more than eight feet from the ground or pavement. Iron or unflammable fire escapes.

(4) The Lieutenant-Governor in Council may make Regulations for the more effectual carrying out of the provisions of this section and for the adoption of any system of fire escape in substitution for those above mentioned. Regulations.

(5) The owner or proprietor of any factory, shop or office building refusing or neglecting to provide the means of safe exit in case of fire prescribed in this section, or by the Regulations made thereunder, shall incur a penalty of not more than \$500 and in default of immediate payment of the same shall be liable to imprisonment for a period of not more than twelve months. Penalty for contravention.

(6) A factory, shop or office building in which a contravention of this section, or of any regulation made thereunder occurs, shall be deemed to be kept so that the safety of the persons employed therein is endangered. 3-4 Geo. V. c. 60, s. 59. Contravention.

Notice of Accidents, Explosions and Deaths.

60. Where a fire or accident in any factory, shop or office building occasions any bodily injury to any person employed therein whereby he is prevented from working for more than six days next after the fire or accident, a notice in writing, Form 6, Schedule B, shall be sent to the Chief Inspector by the employer forthwith after the expiration of such six days, and if such notice is not so sent the employer shall incur a penalty not exceeding \$30. 3-4 Geo. V. c. 60, s. 60. Notice of accident to be given to inspector.

61. Where an explosion occurs in a factory, shop or office building, whether any person is injured thereby or not, the fact of such explosion having occurred shall be reported to the Chief Inspector in writing by the employer, Form 6, Notice of explosion.

Schedule B, within twenty-four hours next after the explosion takes place, and if such notice is not so sent the employer shall incur a penalty not exceeding \$30. 3-4 Geo. V. c. 60, s. 61.

Notification
of death or
fatal injury.

62. Where in a factory, shop or office building any person is killed from any cause, or is injured from any cause in a manner likely to prove fatal, written notice of the accident, Form 6, Schedule B, shall be sent to the Chief Inspector within twenty-four hours after the occurrence thereof and if such notice is not so sent the employer shall incur a penalty not exceeding \$30. 3-4 Geo. V. c. 60, s. 62.

BAKE-SHOPS.

Construction, lighting, heating, ventilation and drainage of bake-shops.

63. Every bake-shop shall be constructed and maintained as to lighting, heating, ventilation and drainage in such a manner as not to be dangerous or injurious to the health of any person working therein, and shall be kept at all times in a clean and sanitary condition, and so as to secure the manufacture and preservation of all food products and materials therein in a good and wholesome condition. 3-4 Geo. V. c. 60, s. 63.

Washroom, towels, soap and closet.

64.—(1) Every bake-shop which is not within the provisions of this Part relating to factories or shops shall be provided with a proper washroom and a sufficient supply of clean towels and soap, and a closet and other conveniences for the health and comfort of the persons employed therein.

Situation of washrooms and closet.

(2) The washroom, closets and other conveniences shall be separate from the bake-shop and shall be kept clean and in a sanitary condition. 3-4 Geo. V. c. 60, s. 64.

No bake-shop to be in basement.

65.—(1) No bake-shop shall be kept in any basement or in any part of a building which is below the level of the street or road upon which the bake-shop is situate.

Application.

(2) This section shall not apply to any bake-shop established before the 6th day of May, 1913. 3-4 Geo. V. c. 60, s. 65.

Sleeping places to be separate.

66. The sleeping places of the employees of every bake-shop shall be separate from the bake-shop, and no person shall sleep in a bake-shop. 3-4 Geo. V. c. 60, s. 66.

Health and hours of labour.

67. Subsection 5 of section 43 and section 70 shall apply to every bake-shop whether the same is or is not a factory or shop within the provisions of this Part relating to factories and shops. 3-4 Geo. V. c. 60, s. 67.

Fire escapes.

68. Every bake-shop, not being a factory or shop to which section 59 applies, shall be provided with proper means and facilities of escape in case of fire to the satisfaction of the Inspector. 3-4 Geo. V. c. 60, s. 68.

69. No person shall sell, expose or offer for sale bread or buns manufactured out of Ontario without the written permission of an Inspector. 3-4 Geo. V. c. 60, s. 69. Sale of bread, etc., manufactured out of Ontario.

70. Except with the written permission of the Inspector no person shall require, permit or suffer any employee in any bake-shop to work on Sunday, nor for more than twelve hours in any twenty-four hours, computed from the time when the employee commences to work, nor more than sixty hours in any one week, and a copy of such permission shall be posted up in a conspicuous place in the bake-shop. 3-4 Geo. V. c. 60, s. 70. No person to work on Sunday or more than 12 hours except with Inspector's permission.

BARBER SHOPS.

71.—(1) The proprietor of a barber shop shall not

(a) require, permit or suffer any employee to work therein on Sunday; Barber shops not to be open on Sunday.

(b) open his barber shop or permit the same to be opened to the public, or carry on any business or work therein at any time between the hours of twelve o'clock on Saturday night and twelve o'clock on the following Sunday night.

(2) Every person who contravenes the provisions of subsection 1 shall incur a penalty of not less than \$20 nor more than \$50. 3-4 Geo. V. c. 60, s. 71. Penalty for contravention.

OFFENCES AND PENALTIES.

72.—(1) No person shall keep a factory, shop or office building so that the safety of persons employed therein is endangered, or so that the health of the persons employed therein is likely to be injured, and every person who so keeps a factory, shop or office building shall incur a penalty of not more than \$500 recoverable under *The Ontario Summary Convictions Act*, or may be imprisoned in the common gaol of the county within which the offence was committed for a period of not more than twelve months. Premises dangerous to health or safety. Penalty. Rev. Stat. c. 90.

(2) The enumeration in this Part of cases in which it is declared that where an act or omission occurs a factory, shop or office building shall be deemed to be kept so that the safety of the persons employed therein is endangered shall not restrict or limit the generality of the provisions of subsection 1. 3-4 Geo. V. c. 60, s. 72. Enumeration not to affect generality.

73. Every person who wilfully makes a false entry in any register, notice, certificate or document required by this Part to be kept or served or sent, or who wilfully makes or signs a false declaration under this Act, or who knowingly makes use

Penalty.

of any such false entry or declaration, shall incur a penalty of not more than \$100 and in default of immediate payment of such penalty shall be liable to imprisonment for a period not exceeding six months. 3-4 Geo. V. c. 60, s. 73.

Parents liable to penalty.

74. The parent of any child, youth or young girl employed in contravention of this Part, unless such employment is without the consent, connivance or wilful default of such parent, shall for each offence incur a penalty of not more than \$50. 3-4 Geo. V. c. 60, s. 74.

Penalty for contravention of Act where no express penalty provided.

75. If any of the provisions of this Part, or of the Regulations, or any directions of the Inspector are contravened and no other penalty is herein provided for such contravention the offender shall incur a penalty of not more than \$50. 3-4 Geo. V. c. 60, s. 75.

Onus of proof as to age of child.

76. Where a child, youth or young girl is, in the opinion of the police magistrate or justice, apparently of the age alleged by the informant it shall lie on the person charged to prove that the child, youth or young girl is not of that age. 3-4 Geo. V. c. 60, s. 76.

Penalty on person committing offence for which employer is liable.

77. Where an offence for which an employer is liable under this Part has in fact been committed by some agent, servant, workman or other person such agent, servant, workman or other person shall also be liable to the same penalty or punishment for such offence as if he were the employer. 3-4 Geo. V. c. 60, s. 77.

Power of employer to exempt himself from fine on conviction of the actual offender.

78. Where the employer is charged with an offence against this Part he shall be entitled, upon information duly laid by him, to have any other person whom he alleges to be the actual offender brought before the police magistrate or justice at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the police magistrate or justice that he had used due diligence to enforce the execution of this Part, and that such other person had committed the offence without the knowledge, consent or connivance of the employer such other person may be summarily convicted of such offence and the employer shall be exempt from any penalty or punishment. 3-4 Geo. V. c. 60, s. 78.

Inspector to proceed against actual offender.

79. Where it appears to the satisfaction of the Inspector that an employer had used all due diligence to enforce the execution of this Part, and also by what person an offence against this Part was committed, and that it was committed without the knowledge, consent or connivance of the employer and in contravention of his orders the Inspector shall proceed against the person whom he believes to be the actual offender in the first instance and not against the employer, and in case

of his conviction the employer shall be exempt from any penalty or punishment. 3-4 Geo. V. c. 60, s. 79.

80. A person shall not be liable in respect of a repetition of the same kind of offence from day to day to any larger penalty or punishment than the highest penalty or punishment fixed by this Part for the offence except where Restraint on cumulative fines.

(a) the repetition of the offence occurs after an information has been laid for the previous offence; or

(b) the offence is one of employing two or more children, youths, young girls or women contrary to the provisions of this Part. 3-4 Geo. V. c. 60, s. 80.

81. All penalties in money recovered under or in pursuance of this Part shall be paid by the convicting police magistrate or justice, as the case may be, to the Inspector who shall forthwith pay the same over to the Treasurer of Ontario. Application of penalties. 3-4 Geo. V. c. 60, s. 81.

82.—(1) All prosecutions under this Part may be brought and heard before a police magistrate or any two justices in and for the county, district or place where the offence was committed; and save where otherwise provided by this Act *The Ontario Summary Convictions Act* shall apply thereto. Prosecutions and procedure. Rev. Stat. c. 90.

(2) The information shall be laid within two months, or where the offence is punishable at discretion by imprisonment within three months, after the offence has come to the knowledge of the Inspector, or where the Inspector has given notice to the offender to remedy the matter which is alleged to be an offence against this Part within three months after the expiry of the time given by the notice to remedy the same. Limitation of prosecutions.

(3) It shall be sufficient to allege that a factory, shop or office building is a factory, shop or office building within the meaning of this Part. Allegation as to factory, shop or office building.

(4) It shall be sufficient to state the name of the ostensible employer or the firm name by which the employer is usually known. 3-4 Geo. V. c. 60, s. 82. Statement as to name of employer.

83. In all cases between employer and employed or their representatives where liability for damages arises by reason of any violation of this Part the liability shall be subject to the limitations contained in *The Workmen's Compensation for Injuries Act*. 3-4 Geo. V. c. 60, s. 83. Limitation liability in certain cases. Rev. Stat. c. 146.

PART II.

MUNICIPAL BY-LAWS AS TO CLOSING OF SHOPS.

Interpreta-
tion.

84.—(1) In this section and in any by-law passed thereunder:

"Shop."

(a) "Shop" shall mean a building or portion of a building, booth, stall or place where goods are exposed or offered for sale by retail, and barbers' shops; but not where the only trade or business carried on is that of a licensed hotel or tavern, victualling house or refreshment house;

"Closed."

(b) "Closed" shall mean not open for the serving of any customer;

Exception as
to customers
entering
before
closing hour.

(2) Nothing in this section or in any by-law passed under the authority thereof shall render unlawful the continuance in a shop after the hour appointed for the closing thereof, of any customers who were in the shop immediately before that hour, or the serving of such customers during their continuance therein.

By-law
determining
hours of
closing.

(3) The council of a city, town or village may by by-law require that during the whole or any part or parts of the year all or any class or classes of shops within the municipality shall be closed, and remain closed on each or any day of the week at and during any time or hours between seven of the clock in the afternoon of any day and five of the clock in the forenoon of the next following day.

Council to
pass by-law
on applica-
tion of
occupiers
of shops.

(4) If an application is presented to such council praying for the passing of a by-law requiring the closing of any class of shops situate within the municipality, and the council is satisfied that such application is signed by not less than three-fourths in number of the occupiers of shops within the municipality and belonging to the class to which such application relates, the council shall, within one month after the presentation of such application, pass a by-law giving effect thereto and requiring all shops within the municipality belonging to the class specified in the application to be closed during the period of the year and at the times and hours mentioned in subsection 2 as are named in the application.

Presenta-
tion of ap-
plication.

(5) If the application is delivered to the clerk of the council it shall be deemed to have been presented to and received by the council.

Powers of
township
councils.

(6) The council of every township shall, with respect to any portion of such township designated in the by-law, have all the rights and powers conferred by this section on the council of a city, town or village, and may pass by-laws which shall apply only to that portion of the township so designated.

(7) The council may by by-law make regulations as to the form of the application and as to the evidence to be produced respecting the proportion of persons signing the same and as to the classification of shops for the purposes of this section, and it shall not be compulsory upon the council to pass such by-law unless and until all such regulations have been duly observed.

Regulations
as to form
and proof of
applications.

(8) Every such by-law shall take effect at a date named therein, being not less than one nor more than two weeks after the passing thereof, and shall before that date be published in such manner as to the council passing the by-law may appear best fitted to insure the publicity thereof.

Commence-
ment and
publication
of by-laws.

(9) A council shall not repeal a by-law passed pursuant to subsection 4 except as provided in the next following subsection.

Conditions
of repeal.

(10) If at any time it is made to appear to the satisfaction of the council that more than one-third in number of the occupiers of shops to which any by-law passed by the council under the authority of subsection 4 relates, or of any class of such shops, are opposed to the continuance of such by-law the council may repeal the by-law, or may repeal the same in so far as it affects such class; but any such repeal shall not affect the power of the council to thereafter pass another by-law under any of the provisions of this section.

Idem.

(11) A shop in which trades of two or more classes are carried on shall be closed for the purpose of all such trades during the hours in which it is by any such by-law required to be closed for the purpose of that one of such trades which is the principal trade carried on in such shop.

Closing of
shops in
which sev-
eral trades
are carried
on.

(12) A pharmaceutical chemist or druggist shall not, nor shall any occupier of, or person employed in or about a shop in any village or township be liable to any penalty or punishment under any such by-law for supplying medicines, drugs or medical appliances after the hour appointed by such by-law for the closing of shops; but nothing in this subsection shall authorize any person to keep open shop after that hour.

Exception
as to sales
by drug-
gists.

(13) Nothing in any such by-law shall render the occupier of any premises liable to any penalty or punishment for supplying any article to any person lodging in such premises, or for supplying any article required for immediate use by reason of any emergency arising from sickness, ailment or death, or for supplying or selling any article to any person for use on or in or about or with respect to any steamboat or sailing vessel which at the time of such supplying or selling is either within or in the immediate neighbourhood of the municipality in which the premises are situate, or for use by or with respect to any person employed or engaged on or being a passenger on or by any such steamboat or sailing vessel; but nothing in this subsection shall authorize any person to keep

Supplying
articles to
lodgers, etc.

open shop after the hour appointed by such by-law for the closing of shops.

Councils may pass by-laws containing different provisions for different localities.

(14) A by-law passed by the council of a township for the closing of all or any class or classes of shops may, as to any or all of its terms and provisions, differ from any other by-law passed by the same council for the closing of all or any class or classes of shops in any other designated part of the same township.

By-law invalid as to one class may be good as to others.

(15) Notwithstanding that the occupiers of any class of shops required to be closed by a by-law passed under the provisions of subsection 4 may not have presented an application for the passing of such by-law every such by-law shall, nevertheless, be valid and effectual as respects any other, and the occupiers of any other class of shops thereby required to be closed in conformity with any application in that behalf made or presented to the council by the prescribed number of occupiers of such last mentioned class.

Burden of proof.

(16) The onus of proving that an application in compliance with subsection 4 was not presented by the prescribed number of the occupiers of any class of shops shall be upon the person asserting that such application was not so presented.

Power of occupier to exempt himself on conviction of actual offender.

(17) Where an offence for which the occupier of a shop is liable under any such by-law to any penalty or punishment has in fact been committed by some agent or servant of such occupier such agent or servant shall be liable to the same penalty or punishment as if he were the occupier.

Agent or servant to be liable to penalty.

(18) Where the occupier of a shop is charged with an offence against any such by-law he shall be entitled, upon information duly laid by him, to have any other person whom he alleges to be the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier proves to the satisfaction of the Court that he has used due diligence to enforce the execution of the provisions of the by-law, and that such other person committed the offence without his knowledge, consent or connivance, such other person may be summarily convicted of such offence and shall be liable to the same penalty or punishment as if he were the occupier, and the occupier shall be exempt from any penalty or punishment.

Municipal Act to apply. Rev. Stat. c. 192.

(19) The provisions of *The Municipal Act* as to the penalties which may be imposed for contravention of by-laws and the recovery thereof shall apply to by-laws passed under this section. 3-4 Geo. V. c. 60, s. 84.

SCHEDULE A.

(Section 2.)

Agricultural Implement Factories.	Coopers' Workshops.
Apple Evaporator Factories.	Cork Factories.
Artificial Flower Factories.	Corset Factories.
Auger Factories.	Corset and Hoopskirt Steel Factories.
Axle and Spring Factories.	Cotton Factories.
Bakehouses and Bakeshops.	Cutlery Factories.
Baking Powder and Yeast Factories.	Distilleries.
Barb Wire Factories.	Domestic Utensils Factories.
Barrel Factories.	Dress Shield Factories.
Basket Factories.	Drop Forging Factories.
Bell Factories.	Dye Works..
Billiard Table Factories.	Edge Tool Factories.
Bindertwine Factories.	Electric Machinery Factories.
Bird Cage Factories.	Electrotype Foundries.
Biscuit Factories.	Elevator Factories.
Blacking Factories.	Emery Wheel Factories.
Blanket Factories.	Enamelling Works.
Boat and Canoe Factories.	Envelope Factories.
Boiler Factories.	Extracts and Essential Oil Factories.
Bolt and Nut Factories.	Excelsior Factories.
Book-binding Factories.	Featherdown Factories.
Boot and Shoe Factories.	Felt Factories.
Box Factories.	File Works.
Brass Foundries.	Fire Works Factories.
Breweries.	Flax Mills.
Brick Yards.	Flour Mills.
Broom Factories.	Foundries.
Brush Factories.	Fringe and Tassel Factories.
Buffalo Robe Factories.	Fruit Desiccating Factories.
Bustle and Hoopskirt Factories.	Furniture Factories.
Button Factories.	Furriers' Workshops.
Canning Factories.	Galvanized and Pressed Iron Work Factories.
Cap Factories.	Gas and Electric Light Works.
Carpet Factories.	Glass Works.
Carriage Factories.	Glove Factories.
Carriage Goods (Iron) Factories.	Glucose Factories.
Carriage Woodwork Factories.	Gun and Small Arm Factories.
Cartridge Factories.	Hair Factories.
Car Shops.	Hair Cloth Factories.
Cement Works.	Hames Factories.
Cereal Food Factories.	Hammer Factories.
Chain Works.	Hat Factories.
Chamois Factories.	Hinge Factories.
Cheese Box Factories.	Horn Comb Factories.
Chemical Works.	Hobby Horse Factories.
Chewing Gum Factories.	Hosiery Factories.
Chicle Works.	Iron Bridge Works.
Child's Carriage Factories.	Jams, Jellies and Pickle Works.
Cider Factories.	Jewellery Factories.
Cigar Factories.	Kaoka Factories.
Cigar Box Factories.	Knitting Factories.
Clay Pipe Factories.	Knitting Machine Factories.
Clock Factories.	Knitting Needle Factories.
Clothing Factories.	Lace Factories.
Coal-hoisting Plants.	Lamp Goods Factories.
Coffin Factories.	Last Factories.
Condensing Cream and Milk Factories.	Laundries.
Confectionery Factories.	

Laundry, Bluing and Washing	Rubber Factories.
Crystal Factories.	Saddlery Hardware Factories.
Lead Pipe and Shot Factories.	Safe Works.
Leather Goods Factories.	Salt Drying Works.
Linen, Cotton and Jute Bag	Sash and Door Factories.
Factories.	Saw Factories.
Lithographers' Workshops.	Saw Mills.
Lock Factories.	Scale Works.
Locomotive Works.	Seed-sorting Works.
Machine Shops.	Sewer Pipe Factories.
Machine Screw Works.	Sewing Machine Works.
Mantle Piece Factories.	Shirt Factories.
Marble Works.	Shoddy Factories.
Match Factories.	Shovel Factories.
Matting Factories.	Show Case Factories.
Mattress Factories.	Silk Factories.
Meat-packing Houses.	Silk Ribbon Factories.
Metallic Shingle Factories.	Silverware Factories.
Mica Works.	Skate Works.
Mill Furnishing Factories.	Soap Works.
Millinery Workshops.	Soda Water Factories.
Mirror Factories.	Spice and Coffee Mills.
Moccasin Factories.	Spoke and Hub Factories.
Nail Works.	Spool Factories.
Necktie Works.	Stained Glass Factories.
Oil Mills.	Starch Factories.
Oil Refineries.	Stave Factories.
Oilcloth Factories.	Stay Factories.
Organ Factories.	Steel Wire Factories.
Organ Reed Factories.	Straw Works.
Ornamental Moulding Factories.	Sugar Refineries.
Overgaiter Factories.	Suspender Factories.
Paint Works.	Syrup Factories.
Paper Bag Factories.	Tanneries.
Paper Box Factories.	Tent and Awning Factories.
Paper Collar Factories.	Terra Cotta Works.
Paper and Pulp Mills.	Thread Spooling Factories.
Paraffine Factories.	Tin Stamping Works.
Patent Medicine Factories.	Tobacco Factories.
Photographic Supplies Factories.	Toy Factories.
Piano Factories.	Trunk Factories.
Piano and Organ Keyboard Fac-	Tub and Pail Works.
tories.	Type Foundries.
Picture Frame Works.	Typewriter Factories.
Pin Factories.	Umbrella Works.
Planing Mills.	Varnish Works.
Plated Metal Works.	Velocipedes and Bicycle Fac-
Polish Factories.	tories.
Plush Factories.	Veneer Factories.
Potteries.	Vinegar Works.
Printing Ink Factories.	Waggon and Sleigh Factories.
Printing Offices.	Wall Paper Factories.
Pulp Factories.	Watch Case Factories.
Pump Factories.	Wax Paper Factories.
Pumping Stations.	Wheel Factories.
Quilting Factories.	Whip Factories.
Rag-sorting Workshops.	Wholesale Packing Houses.
Rattan Goods Factories.	Window Shade Factories.
Reaper Knife Factories.	Wire Goods Factories.
Regalia Factories.	Woodenware Factories.
Renair Shops.	Wood Pulley Factories.
Rivet Works.	Wood Screw Factories.
Rolling Mills.	Woollen Factories.
Rope Works.	

SCHEDULE B.

FORM 1.

(Section 11.)

REGISTER OF CHILDREN, YOUTHS AND YOUNG GIRLS EMPLOYED IN THIS
FACTORY UNDER "THE FACTORY, SHOP AND OFFICE BUILDING ACT."

No child can be employed in any factory except in the business of canning or desiccating fruits and vegetables and the work incidental thereto, as provided for in section 26 of *The Factory, Shop and Office Building Act*.

Under *The Factory, Shop and Office Building Act* the word "child" means a person under the age of fourteen years; the word "youth" means a male of the age of fourteen and under the age of sixteen years; the expression "young girl" means a girl of the age of fourteen years and under the age of eighteen years; the word "woman" means a woman of eighteen years of age and upwards; and the word "parent" means a parent or guardian of, or a person having the legal custody of, or the control over, or having direct benefits from the wages of a child, youth or young girl. See s. 2, clauses b, l, p, q and r.

Columns 1, 2, 3, 4 and 5 to be filled up by the employer before a child, youth or young girl is allowed to work.

1	2	3	4	5	6	7
Name of child, youth or young girl	Name of Parent or Guardian	Residence of Parent or Guardian	Date of first employment	Nature of employment	Age of child, youth or young girl	REMARKS When a person ceases to be employed insert in this column or opposite his or her name, 'Left' When a young girl becomes a woman within the meaning of the Act, insert opposite her name the word 'Woman.'

FORM 2.

(Section 11.)

REGISTER OF WOMEN OF 18 YEARS OF AGE AND UPWARDS EMPLOYED
IN THIS FACTORY.

Under *The Factory, Shop and Office Building Act* the word "Child" means a person under the age of fourteen years; the word "Youth" means a male of fourteen, and under the age of sixteen years; the expression "Young Girl" means a girl of fourteen years and under the age of eighteen years; the word "Woman" means a woman of eighteen years of age and upwards, and the word "Parent" means a parent or guardian of, or a person having the legal custody of, or the control over, or having direct benefit from the wages of the child, youth or young girl. (Section 2.) *Clauses b, l, p, q and r.*

1	2	3	4	5
Name	Residence	Date of first employment	Nature of employment	REMARKS When a woman ceases to be employed insert in this column opposite her name "Left."

FORM 3.

(Section 37.)

REGISTER OF THE CHILDREN, YOUTHS, YOUNG GIRLS AND WOMEN EMPLOYED IN THIS FACTORY ON ANY DAY FOR A LONGER PERIOD THAN IS ALLOWED BY "THE FACTORY, SHOP AND OFFICE BUILDING ACT."

[illegible]

3-4 Geo. V. c. 60, Sched. B, Form 3.

FORM 4.

(Section 12.)

THE FACTORY, SHOP AND OFFICE BUILDING ACT.

Factory to which This Register Applies.

To the Occupier and Employer in This Factory.

1. Name (if any) of factory Situate in

Post Office to which letters for this factory are to be directed.

2. Nature of work carried on.

3. Nature and amount of moving power:

(a) Steam-engine of about indicated horse-power, of which horse-power is employed in this factory.

(b) Water wheel of about indicated horse-power, of which horse-power is employed in this factory.

4. Clock.

5. Name of the occupier and employer.

.....
(Signature of occupier or agent)

I hereby give you notice that the clock named under heading No. 4 on this page is the clock by which the hours of employment and times allowed for meals in this factory are to be regulated.

Dated this day of

.....
Inspector.

3-4 Geo. V. c. 60, Sched. B, Form 4.

FORM 5.

(Section 38.)

"THE FACTORY, SHOP AND OFFICE BUILDING ACT."

NOTICE.

It shall not be lawful for a child, youth, young girl or woman to be employed for more than ten hours in one day, nor more than sixty hours in any one week, unless a different apportionment of the hours of labour per day has been made for the sole purpose of giving a shorter day's work on Saturday.

In every factory the employer shall allow every child, youth and every young girl and woman therein employed not less than one hour at noon of each day for meals, but such hour shall not be counted as part of the time herein limited as respects the employment of children, youths, young girls and women.

Notice of the hours between which children, youths, young girls or women are to be employed shall be made in such form as may be required by the regulations made in that behalf by the Lieutenant-Governor in Council, and shall be signed by the Inspector and by the employer, and shall be hung up during the period affected by such notice in such conspicuous place or places in the factory as the Inspector requires.

In accordance with the foregoing provisions of *The Factory, Shop and Office Building Act*, it is hereby notified to all concerned

that the hours between which children, youths, young girls and women are to be employed in this factory are as follows:

	FORENOON		AFTERNOON		Total hours each day
	Commence at	Stop at	Commence at	Stop at	
Monday					
Tuesday					
Wednesday					
Thursday					
Friday					
Saturday					

Total of hours for the week.....

Dated this.....day of.....

(Signature of Employer or Agent.)

(Inspector's Signature.)

3-4 Geo. V. c. 60, Sched. B, Form 5.

FORM 6.

(Sections 60-62.)

"THE FACTORY, SHOP AND OFFICE BUILDING ACT."

To.....

(Factories Inspector.)

You are hereby notified pursuant to section 60 (or as the case may be) of *The Factory, Shop and Office Building Act* of the happening of an accident in the factory hereunder mentioned, whereof the following are particulars:—

1. Name of person injured (or killed).
2. Factory in which accident happened.
3. Date of accident.
4. Age of person injured (or killed).
5. Residing on street in the of
6. Cause of injury (or death).
7. Extent of injury.
8. Where injured or killed person sent
9. Remarks.

Dated this day of

(Signature of Employer or Agent.)

3-4 Geo. V. c. 60, Sched. B, Form 6.

FORM 7.

(Section 16.)

"THE FACTORY, SHOP AND OFFICE BUILDING ACT."

To.....
(Factories Inspector.)

Pursuant to section 16 of *The Factory, Shop and Office Building Act*, I hereby give notice that I have begun to occupy a factory as undermentioned:

Name under which the business is carried on.....

Name of the factory

Locality of the factory.....

Address to which letters are to be addressed.....

Nature of the work.....

Nature and amount of moving power.....

Dated this day of

.....
(Occupier or Agent.)

3-4 Geo. V. c. 60, Sched. B, Form 7.

CHAPTER 230.

An Act to regulate Maternity Boarding Houses and for the Protection of Infant Children.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Maternity Boarding House Act*. 2 Geo. V. c. 60, s. 1. Short title.

2. In this Act "Medical Officer of Health" shall mean the Medical Officer of Health of the municipality in which any house required by this Act to be registered is situate, and where the house is situate in territory without municipal organization, shall mean and include the medical officer of health appointed for the locality under *The Public Health Act*. 2 Geo. V. c. 60, s. 2. "Medical Health Officer," meaning of. Rev. Stat. c. 218.

3. No person shall receive or retain for hire or reward any woman or girl for accouchement, or keep unmarried women or girls, being mothers of infants and not being married, with infants for board or lodging, or keep a maternity boarding house, unless registered under this Act. 2 Geo. V. c. 60, s. 3. Maternity boarding houses to be registered.

4. No person shall retain or receive for hire or reward one or more infants under the age of three years, for the purpose of nursing or maintaining such infant or infants, for a longer period than twenty-four hours, except in a house which has been registered as herein provided; but any person may be exempted from the provisions of this section by the medical officer of health of a city or by the Superintendent of Neglected and Dependent Children on proof that one child only is thus cared for. 2 Geo. V. c. 60, s. 4. Home for infant children to be registered. Exception.

5.—(1) The medical officer of health or any officer specially appointed by him for that purpose shall keep a register of the names of persons applying to register under this Act, and therein shall cause to be registered the name and house of every person so applying and the situation of the house; and the medical officer of health shall fix the number of women or girls or infants who may be received into any house so registered. Register of maternity boarding houses and infants' homes.

(2) The registration shall remain in force for one year, and a fee, not exceeding \$10, shall be charged for registration. 2 Geo. V. c. 60, s. 5. Registration, duration and fee for.

Discretion
as to registra-
tion.

6. The medical officer of health may refuse to register any house unless satisfied that it is suitable for the purposes for which it is to be registered, and unless satisfied by the production of certificates that the person applying to be registered is of good character and able to maintain, keep and properly lodge such women or girls or infants. 2 Geo. V. c. 60, s. 6.

Cancelling
registration.

7. If it is shown to the satisfaction of the medical officer of health that a person whose house has been so registered as aforesaid has been guilty of serious neglect or is incapable of providing the women or girls or infants intrusted to his care with proper food and attention, or that the house specified in the register has become unfit for the reception of women or girls or infants, the medical officer of health may remove the name and house from the register. 2 Geo. V. c. 60, s. 7.

Register to
be kept by
keeper of
boarding
house or
home.

8. Every person registered as aforesaid shall immediately enter in a register to be kept by him the name and age of every woman or girl or infant and also the place from which such woman or girl or infant came before entering such house, and shall also enter in the register the name of the medical practitioner who attended at any birth taking place in such house or who attended any infant in such house, and when such woman or girl or infant leaves the house, the place to which they are removed, and the date of such removal; also whether the infant was taken away with the mother or how otherwise disposed of, or how children boarded without their mothers are disposed of; and shall forthwith transmit to the medical officer of health a copy of every entry made in the register, and shall produce the register when required by the medical officer of health or any person appointed by him, and in the event of his refusing so to produce the register or neglecting to enter in a register the particulars hereinbefore required, he shall incur a penalty not exceeding \$20. 2 Geo. V. c. 60, s. 8.

Forms for
registration
to be fur-
nished to
keepers.

9. The person registered shall be entitled to receive gratuitously from the medical officer of health a book of forms for the registration of persons received into such house, which shall also contain a printed copy of this Act. 2 Geo. V. c. 60, s. 9.

Births in
houses to be
attended by
physician.

10. The person so registered shall see that every birth which takes place in such house shall be attended by a legally qualified medical practitioner, who shall forthwith report to the medical officer of health the fact of such birth having taken place and shall also register the same in the manner provided by *The Vital Statistics Act*. 2 Geo. V. c. 60, s. 10.

11. The person so registered shall within twenty-four hours after the death of any inmate of such house, whether a woman, a girl, or an infant born therein or brought there-
 to as a boarder, cause notice thereof to be given to the medical officer of health, who shall immediately call the coroner to hold an inquest on the body of such person, unless a certificate under the hand of a registered medical practitioner is produced to him by the person so registering that such medical practitioner had personally attended or examined the person so dying and also specifying the cause of death, and the medical officer of health is satisfied by certificate that there is no ground for holding an inquest. 2 Geo. V. c. 60, s. 11.

Registered persons to give notice of all deaths occurring in house to M. O. H.

12. The medical officer of health shall provide for the visiting and inspecting, from time to time, of every house so registered; and the person appointed to inspect shall be entitled to enter the house at any time and examine every part thereof, and call for and examine the register kept by the person registering the house, and to inquire into all matters concerning the house and the inmates thereof; and the person registered shall give all reasonable information to the person making the inspection, and afford him every reasonable facility for viewing and inspecting the premises, and seeing the inmates thereof. 2 Geo. V. c. 60, s. 12.

Visiting and inspecting maternity boarding houses and homes for infants.

13. No child under three years old, whether an inmate of such house or born therein or brought thereto or otherwise, shall be given out for adoption except by and with the consent of a children's aid society, or other duly incorporated benevolent or charitable institution or society, or of the Superintendent of Neglected and Dependent Children, under such rules and regulations in that behalf as may be approved of by the Lieutenant-Governor in Council. 2 Geo. V. c. 60, s. 13.

Adoption of children from homes.

14. No person registered under this Act shall advertise that he will adopt a child or children or hold out inducements to parents to part with their offspring; and when any such child is transferred by his parents or is given out for adoption to other persons, such transfer shall be made with the knowledge and consent of the agent or secretary of the children's aid society, or of the Superintendent of Neglected and Dependent Children. 2 Geo. V. c. 60, s. 14.

Must be no advertising for children for adoption.

15. No person shall make any false representation for the purpose of obtaining registration under this Act, or make use of any false certificate knowing it to be false, or falsify any register kept in pursuance of this Act. 2 Geo. V. c. 60, s. 15.

Securing registration by false representation, etc., etc.

16. The medical officer of health shall not, nor shall any officer employed by him, nor shall the person registered as keeper of any house, divulge or disclose the contents of the

Registers, contents of, not to be disclosed.

register or any of the particulars entered therein, except upon inquiry before a court of law, or at a coroner's inquest, or before some other competent tribunal, or, in the case of such officer or registered person, for the information of the medical officer of health. 2 Geo. V. c. 60, s. 16.

Record of
antecedents
of inmates.

17. The managers of every maternity hospital, infants' home or other refuge for women, shall ascertain and record the antecedents of women and girls coming under their care, and shall furnish to the medical officer of health such information in their possession as may be called for from time to time. 2 Geo. V. c. 60, s. 17.

Penalty for
violation
of Act.

Rev. Stat. c. 90.

18.—(1) Every person who contravenes any of the provisions of this Act shall incur a penalty not exceeding \$100, to be recoverable under *The Ontario Summary Convictions Act*, and shall in addition be liable to have his name and house removed from the register.

Trial of
offences
against
Act.

(2) Every prosecution under this Act shall take place before a Police Magistrate or two Justices of the Peace. 2 Geo. V. c. 60, s. 18.

Expenses of
execution
of Act.

19. All expenses incurred in and about the execution of this Act and the trial of offenders thereunder shall be borne by the municipality in which the registered house is situated, or in case it is situated in territory without municipal organization, by the Province. 2 Geo. V. c. 60, s. 19.

CHAPTER 231.

An Act for the Protection of Neglected and Dependent Children.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Children's Protection Act* Short title.
of Ontario. 3-4 Geo. V. c. 62, s. 1.

2.—(1) In this Act, Interpreta-
tion.

- (a) "Child" shall mean a boy or girl actually or appar- "Child."
ently under sixteen years of age;
- (b) "Children's Aid Society" shall mean a society hav- "Children's
Aid
Society."
ing among its objects the protection of children from cruelty and the care and control of neglected children which has been approved by the Lieutenant-Governor in Council for the purposes of this Act; and, in a county or district in which there is no children's aid society, shall mean the Superintendent;
- (c) "Court of Summary Jurisdiction" shall mean and "Court of
summary
jurisdic-
tion."
include a police magistrate, a commissioner appointed for the trial of juvenile offenders or two justices of the peace;
- (d) "Foster Home" shall mean a home in which a "Foster
Home."
neglected child may be placed;
- (e) "Judge" shall mean a Judge or a retired Judge of "Judge."
the Supreme Court or of a county or district court, or a police magistrate, or a commissioner appointed for the trial of juvenile offenders, or two justices of the peace;
- (f) "Minister" shall mean the Provincial Secretary or such other member of the Executive Council as "Minister."
may be charged for the time being with the administration of this Act;
- (g) "Municipality" shall mean a county or a city or "Municipal-
ity."
town separated from a county, or a provisional judicial district;

"Neglected Child."

(h) "Neglected Child" shall mean a child who is found begging, receiving alms, thieving in a public place, sleeping at night in the open air, loitering about in a public place after nine o'clock in the evening, associating or dwelling with a thief, drunkard or vagrant, or is an habitual truant, or a child who by reason of the neglect, drunkenness or other vice of its parents is growing up without salutary parental control and education, or in circumstances exposing such child to an idle and dissolute life; or who is found in a house of ill-fame, or known to associate with or be in the company of a reputed prostitute; or an orphan, or an illegitimate child whose mother is unable to maintain it; or who is deserted by its parents; or whose only parent is undergoing imprisonment for crime; or who by reason of ill-treatment, continual personal injury or grave misconduct or habitual intemperance of its parents or either of them is in peril of loss of life, health or morality; or whose home by reason of neglect, cruelty or depravity, is an unfit place for such child; and "Neglected Children" shall mean two or more of such children;

"Parent."

(i) "Parent" shall include a guardian and every person who is by law liable to maintain a child;

"Place of safety."

(j) "Place of Safety" shall include a shelter or temporary home established by a children's aid society or any institution established for the care and protection of children, but not a gaol, prison, police station or lockup;

"Public place."

(k) "Public Place" shall mean a street, highway or lane, whether a thoroughfare or not, and a tavern or other place of public resort, and generally any place to which the public have or are permitted to have access;

"Superintendent."

(l) "Superintendent" shall mean the Superintendent of Neglected and Dependent Children. 3-4 Geo. V. c. 62, s. 2.

Jurisdiction of judges and magistrates.

3. A Judge or a retired Judge of the Supreme Court or of a County or District Court shall have jurisdiction under this Act in any part of Ontario, and a police magistrate or a commissioner or two justices shall have jurisdiction in the county or other locality for which they hold office. 3-4 Geo. V. c. 62, s. 3.

SUPERINTENDENT OF NEGLECTED CHILDREN.

Superintendent of neglected and dependent children.

4. The Lieutenant-Governor in Council may appoint an officer to be known as the Superintendent of Neglected and Dependent Children, whose salary shall be paid out of such

money as may be appropriated for that purpose by this Legislature; and it shall be his duty

- (a) to encourage and assist in the establishment of ^{Duties.} children's aid societies;
- (b) to advise such societies and instruct them as to the manner in which their duties are to be performed;
- (c) to see that a record in such form as may be prescribed by the Superintendent is kept by such societies of all committals, and of all children placed in foster homes under this Act and of such other particulars as may be deemed desirable;
- (d) to direct and supervise the visiting of any place where a child is placed pursuant to the provisions of this Act;
- (e) to prepare and submit an annual report to the Minister;
- (f) to visit and inspect industrial schools and shelters as may be directed by Departmental Regulations, and report at least twice each year to the Minister on the conditions, management and discipline of each industrial school, with suggestions for their improvement;
- (g) to perform such other duties as may be prescribed by the Lieutenant-Governor in Council. 3-4 Geo. V. c. 62, s. 4.

5. The Superintendent shall have and may exercise all the ^{Powers of} powers conferred upon a children's aid society, and shall have ^{superintendent.} power to appoint such person as he may see fit to act for him as occasion may require. 3-4 Geo. V. c. 62, s. 5.

CHILDREN'S SHELTERS.

6.—(1) For the better protection of neglected children the ^{Children's} corporation of every city or county shall provide one or more ^{shelters.} places of refuge for such children only, to be known as temporary homes or shelters, and shall assist in the maintenance thereof.

(2) An orphan or children's home may, with the consent ^{Orphan and} of the trustees or governing body thereof, be used as a tem- ^{children's} porary home or shelter under this section; and when desirable ^{homes.} for economical reasons, not inconsistent with the welfare of the children to be provided for, such temporary home or shelter may be established in a private family.

(3) When a children's aid society has been established it ^{Super-} shall receive into the temporary home or shelter provided by ^{vision of} or at the expense of the municipality all children found to be ^{shelters by} Children's Aid Society.

neglected under this Act and have their supervision and management.

Society
may hold
property.

(4) A children's aid society may buy, sell, lease, hold or otherwise deal with real and personal property for the purposes of the society.

Dissolution
of societies.

(5) If a society or committee established under this Act ceases to exist or does not hold a meeting for a period of six months the secretary or other officer shall deliver to the Superintendent all books, documents, records and financial statements, and pay over to him all trust funds on hand, and the society or committee shall thereupon be dissolved and its property shall be vested in the Minister; and the Superintendent shall then reorganize the work or make such arrangements for carrying it on as the Minister may approve. 3-4 Geo. V. c. 62, s. 6.

COUNTY COMMITTEES.

Children's
committees.

7.—(1) In any electoral district, town or village there may be established by the children's aid society of the county or by the Superintendent a committee consisting of not less than six persons, at least one half of whom shall if practicable be women, to be known as the "Children's Committee;" and the committee and the members thereof shall co-operate with the Superintendent and with the children's aid societies.

Powers of
committee.

(2) The committee or any member thereof shall have and may exercise the powers conferred by sections 8 and 9 under the direction of the society, and may adopt such methods as they may think best for securing voluntary subscriptions to be devoted to carrying out the objects of this Act. 3-4 Geo. V. c. 62, s. 7.

APPOINTMENT AS PROBATION OFFICERS.

Powers as
probation.

Rev. Stat.
c. 271.

8. The officers of a children's aid society may act as probation officers for the purpose of enforcing the provisions of this Act and of *The Industrial Schools Act*. 3-4 Geo. V. c. 62, s. 8.

APPREHENSION OF NEGLECTED CHILDREN.

Neglected
child—
Apprehension.

9.—(1) A constable or a person authorized under section 8 to act as a probation officer or a chief constable or inspector of police may apprehend without warrant and take to a place of safety any neglected child.

Proceed-
ings before
Judge.

(2) The child shall be returned to its parents or guardians or be brought before the Judge for examination within one week after apprehension, and the Judge shall investigate the facts of the case and ascertain whether the child is a neglected

child and its age, and the name, residence and religion of its parents.

(3) The Judge may compel the attendance of witnesses and may require the attendance of the crown attorney upon such investigation. Witnesses.

(4) The parents or person having the actual custody of a child shall be notified of the investigation, and any person may appear on behalf of the child. Parents, etc., may appear.

(5) If on such investigation the Judge finds that the child is a neglected child he may order that the child be delivered to a children's aid society; and the society may send the child to their temporary home or shelter to be kept until placed in a foster home. Child may be delivered to Society.

(6) The order shall contain a statement of the facts so far as ascertained, and shall name the municipal corporation liable for maintenance, and shall be filed with the Superintendent, and the Judge shall transmit a certified copy thereof to the children's aid society. Order to be filed with Superintendent and Society.

(7) The expense of conveying a child to any shelter or industrial school shall be paid by the treasurer of the county, city, separated town or provisional judicial district in which such child is committed, and the person conveying such child shall, when practicable, be an officer of a children's aid society. 3-4 Geo. V. c. 62, s. 9. Expenses of conveyance of child.

10. The Superintendent and any person acting under his authority may call to his aid in the performance of his duties a constable of the locality, and the constable when so called shall be entitled for his services to the same fees as he would be entitled to for like services under *The Administration of Justice Expenses Act*, and the same shall be payable in like manner as the fees of constables are payable under that Act. 3-4 Geo. V. c. 62, s. 10. Employment of local constables. Rev. Stat. c. 96.

11. The superintendent of any infants' or children's home or other public institution having the custody of children may bring before the Judge any child who there is cause to believe has been neglected or deserted by its parents, and the Judge may make an order committing the child to the care of a children's aid society under the provisions of this Act. 3-4 Geo. V. c. 62, s. 11. Commitment of deserted child to a society.

MAINTENANCE OF CHILDREN.

12.—(1) When committing a child to the custody or control of a children's aid society the Judge shall make an order for the payment by the corporation of the municipality to which the child belongs of a reasonable sum, not less than \$2 weekly, for the expense of supporting the child by the society. Order for maintenance by municipality.

or in a temporary home, or in a foster home where children are not cared for without compensation.

When under temporary care of society.

(2) A like order may also be made on the application of a society for the maintenance of a child while under the temporary care of the society.

What presumed to be residence of child.

(3) For the purposes of this section a child shall be deemed to belong to the municipality in which it has last resided for the period of one year; but in the absence of evidence to the contrary residence for one year in the municipality in which the child was taken into custody shall be presumed.

Residence of mother, where child under age of one year.

(4) In the case of a child under one year of age the municipality in which the child's mother has last resided for one year shall be deemed liable for maintenance.

Recovery from other municipalities.

(5) The corporation of a municipality which has made a payment under the provisions of this section for the maintenance of a child in respect to whom some other municipal corporation is liable shall be entitled to recover the amount so paid from such other corporation. 3-4 Geo. V. c. 62, s. 12.

Judge may order parent to contribute.

13.—(1) The Judge may order the parent of a child who has been committed to a children's aid society or placed in a foster home to contribute toward the child's maintenance, and upon default of payment of the amount ordered to be paid may order that such parent be imprisoned for any period not exceeding forty days, and such committal shall not affect the right to a further or other order for committal for a subsequent default.

Municipality not relieved.

(2) Nothing in this section shall relieve the municipal corporation from payment when the parent is unable or refuses to contribute.

Additional maintenance.

(3) At any time after the committal of a child or its being placed in a foster home the children's aid society or foster parent may apply to the Judge for an order for the payment of such additional maintenance as to him may seem just.

Enforcing the order. Rev. Stat. c. 79.

(4) An order made under section 12 or this section may be enforced under *The Judges Orders Enforcement Act*. 3-4 Geo. V. c. 62, s. 13.

TO SELECT FOSTER HOMES.

Power and duty of the society.

14.—(1) The children's aid society to the care of which a child has been committed shall be the legal guardian of such child, and it shall be the duty of such society to use diligence in providing a suitable home for such child.

Society may place child in foster home.

(2) The society may place the child in a foster home during minority, or for any shorter period in the discretion of such society, under a written contract which shall provide

for the education of the child in accordance with the school law of Ontario, for teaching the child some useful occupation, for its kind and proper treatment as a member of the family, and for the payment to the society for the benefit of the child of any sum of money that may be provided for in the contract, and shall contain a provision reserving the right to withdraw the child from any person having its custody when, in the opinion of the society, the welfare of the child so requires.

(3) Where the Superintendent is of opinion that a child placed in a foster home requires special training he may order such child to be transferred to an industrial school or other institution subject to the inspection of the Superintendent or of the Inspector of Prisons and Public Charities, and such transfer shall have the same effect as if made by a Judge. 3-4 Geo. V. c. 62, s. 14.

Superintendent may transfer child to Industrial School.

PENALTY FOR ILL-TREATMENT.

15. Any person having the care, custody, control or charge of a child who ill-treats, neglects, abandons, deserts or fails to support such child shall incur a penalty not exceeding \$100, and shall in lieu of or in addition thereto be liable to imprisonment for a term not exceeding one year. 3-4 Geo. V. c. 62, s. 15.

Ill-treating, neglecting, etc.
Penalty.

STREET TRADES.

16. No girl under sixteen years of age and no boy under ten years of age shall engage in or be licensed or permitted to engage in any street trade or occupation. 3-4 Geo. V. c. 62, s. 16.

Street trades.

CHILDREN OUT AT NIGHT.

17.—(1) No child shall loiter in any public place after nine o'clock in the evening or be there unless accompanied by his parent or guardian or an adult appointed by the parent or guardian to accompany such child.

Child in public place at night.

(2) A child found in a public place after the hour named in subsection 1 unless so accompanied may be warned to go home by any constable or probation officer or officer of a children's aid society, and if after such warning the child is found loitering in a public place such child may be taken by the constable or officer to its home or to the children's shelter.

To be warned and taken home or to shelter.

(3) A parent who permits his child to violate this section shall for the first offence incur a penalty of \$1 without costs, and for a second offence \$2, and for a third or any subsequent offence \$5. 3-4 Geo. V. c. 62, s. 17.

Penalty for parent.

CAUSING CHILDREN TO BE NEGLECTED.

18.—(1) Any person who causes or procures a child to be in any public place for the purpose of begging or receiving alms or Offences.

(a) causes or procures a child to be in any public place for the purpose of begging or receiving alms or Causing child to beg.

of inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale or otherwise; or

To perform
or sell in
public after
9 p.m.

- (b) causes or procures a child to be in any public place for the purpose of singing, playing, or performing for profit, or offering anything for sale between nine o'clock in the evening of one day and seven o'clock of the following morning; or

To be in
circus, etc.,
for purpose
of perform-
ing.

- (c) subject to the provisions of subsection 2, causes or procures any child to be at any time for the purpose of singing, playing or performing for profit or offering anything for sale in any circus or other place of public amusement to which the public are admitted by payment; or

Causing
child to be
a neglected
child.

- (d) is guilty of an act or omission which contributes to a child being or becoming a neglected child,

Penalty.

shall incur a penalty not exceeding \$100 and in lieu of or in addition thereto shall be liable to imprisonment for a term not exceeding one year.

Permission
for child
to perform
in public.

(2) In the case of any entertainment or series of entertainments to take place in premises used for public entertainment or in any circus or other place of public amusement, where it is shown that proper provision has been made to secure the health and kind treatment of a child proposed to be employed thereat, the head of the council of the municipality may grant a license for such time and during such hours of the day and subject to such restrictions and conditions as he may think fit for any child over ten years of age of whose fitness to take part in such entertainment or series of entertainments without injury he is satisfied; and such license may at any time be varied, added to or revoked by him.

Officer to be
appointed
to super-
vise.

(3) The municipal council shall assign to some person the duty of seeing that the restrictions and conditions of any license granted under the authority of this section are duly complied with; and such person shall have power to enter, inspect and examine any place at which the employment of a child is for the time being licensed; and that duty shall be discharged by the chief constable of the municipality until some other person is appointed. 3-4 Geo. V. c. 62, s. 18.

POWER OF SEARCH.

Search for
neglected
child.

19.—(1) If it appears to a justice of the peace, on information laid before him on oath by any person who in the opinion of the justice is *bona fide* acting in the interest of the child, that there is reasonable cause to suspect that a child has been or is being ill-treated or neglected in any place within the jurisdiction of such justice in a manner likely to

cause the child unnecessary suffering, or to be injurious to his health or morals, such justice may issue a warrant authorizing any person named therein to search for such child and to take it to and detain it in a place of safety until it can be brought before a Judge, and the Judge before whom the child is brought may cause it to be dealt with as provided for in this Act.

(2) The justice may by the same warrant cause any person accused of an offence in respect of the child to be apprehended and brought before a Judge to be dealt with according to law. Order for apprehension.

(3) Any person authorized by the warrant may enter, if need be by force, any house, building or other place specified in the warrant and may remove the child therefrom. Right of entry by officer.

(4) It shall not be necessary in any information or warrant laid or issued under the provisions of this section to describe a child by name. 3-4 Geo. V. c. 62, s. 19. Particular description not needed.

INTERFERING WITH WARDS.

20.—(1) No person shall Interfering with wards of Children's Aid Society.

(a) induce any child to leave the building or premises or custody or control of any children's aid society, immigration society, children's institution or industrial school;

(b) induce or attempt to induce a child under the age of twenty-one years to leave any service or apprenticeship or any place where the child has been lawfully placed for the purpose of being nursed, supported, educated, adopted or employed;

(c) induce or attempt to induce any child under the age of twenty-one years to break any articles of apprenticeship or agreement lawfully entered into by or with the authority of the trustees or directors or governing body of any such children's aid society, immigration society, home or asylum respecting such child; or

(d) detain or harbour such child after demand made by or on behalf of any officer of any such society or institution for delivery up of such child.

(2) A person who violates the provisions of this section shall incur a penalty not exceeding \$20. 3-4 Geo. V. c. 62, s. 20. Penalty.

JUVENILE OFFENDERS.

21.—(1) A child charged with an offence against the laws of Ontario or who is brought before a Judge under any of Separate custody of juvenile offenders.

the provisions of this Act shall not, before trial or examination, be confined in a lock-up or a police cell used for persons charged with crime, nor, save as hereinafter mentioned, shall such child be tried or have its case disposed of in the police court room ordinarily used.

Municipal-
ities to pro-
vide same.

(2) The council of every local municipality shall make provision for the separate custody and detention of such child prior to its trial or examination by arrangement with some person or society willing to undertake the responsibility of such temporary custody or detention on such terms as may be agreed upon, or by providing suitable premises entirely distinct and separated from the ordinary lock-ups or police cells.

Children's
Courts.

(3) The Judge shall try such child or examine into its case and dispose thereof in premises other than the ordinary police court premises or, where this is not practicable, in the private office of the Judge if he have one, or in some other room in the municipal building.

Enquiry
may take
place in
premises of
Society.

(4) Where a children's aid society possesses premises affording the necessary facilities and accommodation, a child may, after apprehension under the provisions of this Act, be temporarily taken charge of by the society until its case is disposed of; and the Judge may hold the examination into the case of such child in the premises of the society.

Trial of
offence of
child or
parent—
Excluding
public.

(5) Where a child or a parent charged with an offence in respect of a child under this Act is being tried, the Judge shall exclude from the room or place where such person is being tried or examined all persons other than the counsel and witnesses in the case, officers of the law or of any children's aid society and the immediate friends or relatives of the child or parent. 3-4 Geo. V. c. 62, s. 21.

TO NOTIFY SOCIETY'S AGENT.

Notice of
complaint
against
child to be
sent to
Society.

22.—(1) Where a complaint is made or pending against a child, the police official having charge of the child shall at once cause notice in writing to be given to the executive officer of the children's aid society, if there be one in the county or district, who shall have opportunity allowed him to investigate the charge.

Society's
officer to
make
enquiry.

(2) Upon receiving such notice the officer may enquire into and make full examination as to the parentage and surroundings of the child and all the circumstances of the case and report the same to the Judge.

Judge may
order officer
to take
charge of
child.

(3) Where it appears to the Judge that the public interest and the interest of the child will be best served thereby, an order may be made for the return of the child to its parents or friends, or the Judge may place such child under the guardianship of the children's aid society or of an industrial school. 3-4 Geo. V. c. 62, s. 22.

DISPOSAL OF YOUTHFUL OFFENDERS.

23.—(1) The Judge instead of committing a child to prison may hand over the child to the charge of a home for destitute and neglected children or industrial school or children's aid society, and the managers of such home, school or society may permit its adoption by a suitable person, or may apprentice it to a suitable trade, calling or service, and the transfer shall be as valid as if the managers were the parents of such child.

Judge may hand over child to home or industrial school.

(2) The parents of such child shall not remove or interfere with the child so adopted or apprenticed except by permission in writing of the home, school or society. 3-4 Geo. V. c. 62, s. 23.

Interference by parent.

CHILDREN UNDER ARREST.

24. No child held for trial or under sentence in any gaol or other place of confinement shall be placed or allowed to remain in the same cell or room in company with adult prisoners; and the officer in charge of such place of confinement shall secure the exclusion of such child from the society of adult prisoners during its confinement. 3-4 Geo. V. c. 62, s. 24.

Child not to be confined in company of adult offenders.

COMMISSIONERS MAY BE APPOINTED.

25. The Lieutenant-Governor may appoint Commissioners with the powers of police magistrates to hear and determine complaints and to enforce any of the provisions of this Act or against juvenile offenders apparently under the age of sixteen years. 3-4 Geo. V. c. 62, s. 25.

Commissioners.

DOUBT AS TO AGE.

26. Where a person is charged with an offence under this Act in respect of a child who is alleged to be under a specified age, and the child appears to the Judge to be under that age, such child shall for the purposes of this Act be deemed to be under that age unless the contrary is proved. 3-4 Geo. V. c. 62, s. 26.

Presumptive age of child.

APPLICATION FOR PRODUCTION OF CHILD.

27.—(1) Where a parent applies to a Judge of the Supreme Court for an order for the production of a child committed under this Act, and the Judge is of opinion that the parent has neglected or deserted the child or that he has otherwise so conducted himself that the Judge should refuse to enforce his right to the custody of the child the Judge may, in his discretion, decline to make the order.

Application to Court for production of child.

Court may
order com-
pensation.

(2) If at the time of the application the child is being brought up by another person or has been placed out by a children's aid society the Judge if he directs the child to be given up to the parent may order that the parent shall pay to such person or society the whole of the expense properly incurred in bringing up the child, or such portion thereof as may seem just.

Order when
child de-
serted or
brought up
by others.

(3) Where a parent has

(a) abandoned or deserted his child; or

(b) allowed his child to be brought up by another person at that person's expense, or by a children's aid society, for such time and under such circumstances as to satisfy the court that the parent was unmindful of his parental duties,

Child not
to be de-
livered to
parent
unless fit
person.

the Judge shall not make an order for the delivery of the child to the parent unless he satisfies the Judge that having regard to the welfare of the child he is a fit person to have the custody of the child.

Order as to
religious
education.

(4) If the Judge is of opinion that the parent ought not to have the custody of the child but that the child is being brought up in a different religion from that in which the parent has a legal right to require that the child shall be brought up, the Judge shall have power to make such order as he may think fit to secure that the child be brought up in that religion.

Child's
wishes to
be con-
sulted.

(5) Nothing in this section shall affect the power of the Judge to consult the wishes of the child in determining what order ought to be made or any right which a child now possesses to exercise its own free choice. 3-4 Geo. V. c. 62, s. 27.

RELIGION OF CHILD.

Roman
Catholic
and Pro-
testant
child.

28.—(1) Notwithstanding anything in this Act, no Protestant child shall be committed to the care of a Roman Catholic children's aid society or institution, nor shall a Roman Catholic child be committed to a Protestant children's aid society or institution; and in like manner no Protestant child shall be placed out in any Roman Catholic family as its foster home, nor shall a Roman Catholic child be placed out in any Protestant family as its foster home.

Where only
one Society
in muni-
cipality.

(2) This section shall not apply to the care of a child in a temporary home or shelter in a municipality in which there is but one children's aid society. 3-4 Geo. V. c. 62, s. 28.

PENALTIES, HOW RECOVERABLE.

Recovery of
penalties.

29. The penalties imposed by or under the authority of this Act shall be recoverable and may be enforced under *The*

Ontario Summary Convictions Act, and the provisions of that Act shall apply to prosecutions for a violation of this Act. 3-4 Geo. V. c. 62, s. 29. Rev. Stat. c. 90.

RIGHT OF INSPECTION.

30. Every society or person to whose care a child is committed under the provisions of this Act, and every person intrusted with the care of any such child, shall from time to time permit such child to be visited, and any place where such child may be or reside to be inspected by the Superintendent or any person duly authorized in that behalf. 3-4 Geo. V. c. 62, s. 30. Right of Superintendent to inspect.

JUVENILE IMMIGRATION.

31.—(1) The Lieutenant-Governor in Council may authorize any society or agent to carry on the work of bringing into Ontario neglected or dependent children, who are not feeble-minded and who before arrival in Ontario are certified by a regularly qualified medical practitioner to be free from disease of any kind, for the purpose of providing foster homes for such children or binding them as apprentices or otherwise. Authority to bring children into Ontario.

(2) Authority to bring such children into Ontario shall only be granted on condition that if any such child becomes, within five years of his immigration, an inmate of a prison, hospital or other charitable institution where such child is likely to become a permanent charge, the Inspector of Prisons and Public Charities shall notify the society or agent under whose auspices the child was brought into Ontario in order that such child may be deported. 3-4 Geo. V. c. 62, s. 31. Conditions of authority.

32.—(1) Every such society or agent shall keep a record in a register prescribed by the Superintendent for that purpose of the names of all children brought into Ontario, their ages and such particulars as may be required to indicate the provision made for each child's adoption or apprenticeship; and a copy of the records made by each society or agent shall be filed with the Superintendent on the first day of January and July of each year. Societies to keep records.

(2) Any society or agent who knowingly makes or is a party to the making of or procuring to be made, directly or indirectly, any false return shall incur a penalty of \$1,000 which may be recovered with costs by action at the suit of the Crown only. 3-4 Geo. V. c. 62, s. 32. Penalty for false return.

33. Every society or agent shall maintain careful supervision over every child brought or caused or procured to be brought into Ontario by such society or agent until such child attains the age of eighteen years; and it shall be the duty of Duties of societies and agents as to children brought into Ontario.

such society or agent to cause a personal visit by an agent, specially appointed for that purpose, to be made to each such child at least once in every year until the child has attained such age; and for the purposes of this Act, and for the protection of the person and earnings of the child, the society or agent, until the child attains the age of eighteen years, shall have all the powers and shall perform all the duties by law provided in the case of the guardian of an infant. 3-4 Geo. V. c. 62, s. 33.

As to
school
attendance.

34. Every society, agent or person having the custody of any child heretofore or hereafter brought into Ontario shall be entitled to send such child to the public or separate schools of the municipality or school section in which the child resides in the same manner as the child of any ratepayer in the municipality or school section; and every such society, agent or person having the custody of any such child shall be subject to *The Truancy Act* and to the penalties imposed by that Act in the same manner and to the same extent as any ratepayer. 3-4 Geo. V. c. 62, s. 34.

Rev. Stat.
c. 274.

Penalty
for bringing
children
into the
Province
unlawfully.

35. Any society or agent engaging in the work of bringing children to Ontario without an Order in Council permitting them to do so shall on conviction before a magistrate or Judge incur a penalty not exceeding \$100 or in default of payment shall be liable to imprisonment for a period not exceeding three months. 3-4 Geo. V. c. 62, s. 35.

CHAPTER 232.

An Act for the Protection of Females in Institutions subject to Inspection.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Female Patients and Prisoners Protection Act*. 3-4 Geo. V. c. 80, s. 1. Short title.

2. No person shall at any time or place within the precincts of any institution which is subject to inspection by the Inspector of Prisons and Public Charities unlawfully and carnally know any female, who is capable in law of giving her consent to such carnal knowledge, while she is a patient or is detained or imprisoned in such institution. 3-4 Geo. V. c. 80, s. 2. Offence.

3. Every person who contravenes the next preceding section shall be liable to imprisonment for any term less than two years. 3-4 Geo. V. c. 80, s. 3. Penalty.

4. Prosecutions for offences against this Act shall be had under *The Ontario Summary Convictions Act*, the provisions of which shall apply, except that the prosecution shall be before a police magistrate or two justices of the peace. 3-4 Geo. V. c. 80, s. 4. Prosecutions.
Rev. Stat.
c. 90.

CHAPTER 233.

An Act respecting Juvenile Courts.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Juvenile Courts Act*.

Juvenile
Courts.

7 and 8
Edw. VII.
c. 40 (Dom.)

2. The Lieutenant-Governor in Council may by Order in Council fix the salary to be paid to the magistrate or officer constituting a juvenile court under *The Juvenile Delinquents Act, 1908*, for a city or town, and such salary shall be paid by the city or town at the time and in the manner set forth in such Order in Council. 1 Geo. V. c. 17, s. 27.

Detention
homes.
Rev. Stat.
c. 231.
7 and 8
Edw. VII.
c. 40 (Dom.)

3. Every temporary home or shelter provided for children under section 6 of *The Children's Protection Act of Ontario* shall be a detention home within the meaning of *The Juvenile Delinquents Act, 1908*. 10 Edw. VII. c. 96, s. 2.

Agent of
Children's
Aid Society
to be pro-
bation officer.
Rev. Stat.
c. 231.
7 and 8
Edw. VII.
c. 40 (Dom.)

4. Every agent of a Children's Aid Society formed under *The Children's Protection Act of Ontario* shall be a probation officer within the meaning of *The Juvenile Delinquents Act, 1908*. 10 Edw. VII. c. 96, s. 3.

CHAPTER 234.

An Act respecting the Sale of Tobacco to Minors.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Minors' Tobacco Sales Act*. short title.

2.—(1) No person shall either directly or indirectly sell or give or furnish to a minor under eighteen years of age cigarettes, cigars or tobacco in any form. R.S.O. 1897, c. 261, s. 2, *part*. Supplying tobacco to persons under 18.

3. Every person who contravenes section 2 shall incur a penalty of not less than \$10 nor more than \$50, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 261, s. 1, *part*. Penalty. Rev. Stat. c. 90.

4. This Act shall not apply to a sale to a minor for his parent or guardian under a written request or order of the parent or guardian. R.S.O. 1897, c. 261, s. 2. Where minor purchases for parent or guardian.

5. A person who appears to the Magistrate to be under 18 years of age shall be presumed to be under that age unless it is shown by evidence that he is in fact over that age. R.S.O. 1897, c. 261, s. 3. Presumption as to age.

CHAPTER 235.

An Act to regulate the means of Egress from Public Buildings.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Egress from Public Buildings Act*.

Doors of public buildings to open outwards.

2. In every church, school, house, hall or other building heretofore or hereafter constructed or used for holding public meetings, or as a place of public resort or amusement, every outer door and every door leading from the assembly hall or room or school rooms shall be so hinged that it may open freely outwards, and every gate of an outer fence if not so hinged shall be kept open by proper fastenings during the time such building is publicly used, to facilitate the egress of people, in case of alarm from fire or other cause. 1 Geo. V. c. 72, s. 1.

Liability of ecclesiastical or other bodies with corporate powers.

3. Every congregation or society possessing corporate powers, and every trustee, incumbent, churchwarden or other person holding churches, schools or buildings used for churches or schools shall be severally liable, as trustees for such societies, congregations or schools, to the provisions of this Act. 1 Geo. V. c. 72, s. 2.

Penalty.

4.—(1) Any person owning, possessing or managing a public hall, school, house, church or other building used for public meetings who contravenes the provisions of this Act, or any of them, or the regulations made hereunder, or any of them, shall incur a penalty not exceeding \$50 recoverable before any two justices of the peace or before the mayor or police magistrate of any city or town.

Further penalty for delay.

(2) If the necessary changes are not made, the person offending shall incur a further penalty of \$5 for every week succeeding that in which the information is laid.

Application of penalty.

(3) One moiety of the penalty shall be paid to the person laying the information and the other moiety to the corporation of the municipality within which the offence is committed. 1 Geo. V. c. 72, s. 3.

Recovery of penalty.
Rev. Stat. c. 90.

(4) The penalty shall be recoverable under *The Ontario Summary Convictions Act*.

5. The Lieutenant-Governor in Council may make regulations for the enforcement of this Act and the safety and convenience of persons assembled in buildings within the provisions of this Act. 1 Geo. V. c. 72, s. 4.

Regulations
by Lieutenant-
Governor in
Council.

CHAPTER 236.

An Act to regulate Halls, Theatres and
Cinematographs.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Theatres and Cinematographs Act*. 1 Geo. V. c. 73, s. 1.

Regulations by Lieutenant-Governor-in-Council as to theatres.

2. The Lieutenant-Governor in Council may make Regulations similar or different in different localities, or with reference to different classes of buildings, or having application to different classes of performances or to different conditions governing the erection, operation and safety of theatres, including inspection and supervision, and shall have every power for such purpose which shall be necessary to carry into effect the terms of this section. 1 Geo. V. c. 73, s. 2.

Licensing and regulating cinematographs, etc.

3. The Lieutenant-Governor in Council may impose a license fee upon and make Regulations for licensing, using and operating of cinematographs, moving picture machines or other similar apparatus, for prescribing the conditions under which such machines shall be operated, for licensing, operating and defining of film exchanges, for prohibiting or regulating films or slides to be exchanged or exhibited, for examining, regulating and licensing operators and for prescribing the terms and conditions under which such machines shall be operated or such films sold, leased or exchanged. 2 Geo. V. c. 54, s. 1.

Board of Censors.

4.—(1) The Lieutenant-Governor in Council may appoint a Board of Censors, to hold office during pleasure, composed of three persons who shall have power to permit the exhibition of or absolutely to prohibit or reject any film or slide which it is proposed to use in Ontario and to suspend for cause the license of any operator.

Appeal from Board.

(2) There shall be an appeal from the Board of Censors to the person, body or Court designated and subject to the conditions prescribed by regulation of the Lieutenant-Governor in Council. 2 Geo. V. c. 54, s. 2.

Inspector.

(3) The Lieutenant-Governor in Council may appoint an Inspector to inspect theatres, cinematographs, moving picture machines or other similar apparatus and perform such

other duties as the Lieutenant-Governor in Council may require. 3-4 Geo. V. c. 18, s. 40.

5. No cinematograph, moving picture machine or other similar apparatus shall exhibit any films which have not been stamped by the Board of Censors, and no such cinematograph, moving picture machine or other similar apparatus shall be kept or exhibited for entertainment until the owner, user or exhibitor of such apparatus has complied with the Regulations and obtained a license from the Treasurer of Ontario. 1 Geo. V. c. 73, s. 5.

Films to be stamped by Board of Censors.

6. All films passed or permitted to be exhibited by the Board of Censors shall be stamped in such manner that the stamp will show upon the canvas, screen or any substitute therefor, unless otherwise authorized, such authorization to be submitted to the inspection of any person on demand, and no exhibition of such film shall be prohibited by any police officer or constable or other person on account of anything contained in such film. 2 Geo. V. c. 54, s. 3.

Stamps to show on canvas.

7.—(1) The user or exhibitor of every cinematograph, moving picture machine or other similar apparatus, the owner, lessee or manager of every film exchange and the person operating such cinematograph, moving picture machine or other similar apparatus shall each pay in advance to the Treasurer of Ontario an annual license fee.

License fee.

(2) The amount of the license fee may be different in the case of the user or exhibitor, in the case of the owner, lessee or manager and in the case of the person operating, and shall be fixed by the Regulations. 1 Geo. V. c. 73, s. 7.

Amount.

8. Any person in charge of such cinematograph, moving picture machine or other similar apparatus, or the owner, proprietor, manager or person having control thereof who uses any such machine for public entertainment without having complied with, or in contravention of the Regulations, or without having a license therefor from the Treasurer of Ontario, or who exhibits films not authorized by the Board of Censors as required by this Act shall be guilty of an offence against this Act. 2 Geo. V. c. 54, s. 4.

Exhibiting in violation of regulations.

9. No municipal corporation shall issue a license for any cinematograph, moving picture machine or other similar apparatus to which this Act applies until the applicant produces a license from the Treasurer of Ontario authorizing the exhibition in the municipality, and any member or officer of a municipal corporation who is a party to the issue of any license in contravention of this Act shall incur a penalty of \$20. 1 Geo. V. c. 73, s. 9.

Municipal licenses not to be issued, until provincial license granted.

10. A child under the age of fifteen years unaccompanied by an adult shall not be permitted to attend any exhibition by

Children under 15 years of age.

cinematograph, moving picture machine or other similar apparatus at which exhibition an admission fee is charged. 1 Geo. V. c. 73, s. 10.

Penalty.

11. Any person contravening any of the provisions of this Act, save sections 9 and 12, or any Regulation shall incur a penalty of not less than \$50 nor more than \$200, and a further penalty of \$25 for every day after conviction upon which such offence continues. 1 Geo. V. c. 73, s. 11.

**Liability for
bodily injury
or loss of
life.**

12. If any breach of this Act or of any of the Regulations causes directly or indirectly bodily injury or loss of life the owner, lessee, manager, operator or other person through or by whom such breach occurred shall, in addition to any other penalty prescribed by law, be liable to imprisonment for a term not exceeding one year. 1 Geo. V. c. 73, s. 12.

**Inspection by
Ontario Pro-
vincial
Police.**

13. For the purpose of enforcing the provisions of this Act and of the Regulations, the Ontario Provincial Police or a member of the Board of Censors or such other person appointed under this Act are hereby empowered and directed at any time to inspect any cinematograph, moving picture machine or other similar apparatus which is used or kept on premises licensed under this Act. 2 Geo. V. c. 54, s. 5.

**Duty of
Chief
Constable.**

14. In a city, town or village it shall also be the duty of the Chief Constable or Chief of Police to enforce the provisions of this Act and the Regulations. 1 Geo. V. c. 73, s. 14.

**Recovery
of penalties.
Rev. Stat.
c. 90.**

15.—(1) The penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*.

**Application
of pen-
alties.**

(2) All penalties recovered under this Act shall be paid to the Treasurer of Ontario. 1 Geo. V. c. 73, s. 15.

**Regulations
generally.**

16. The Lieutenant-Governor in Council shall have power to make such regulations as may be deemed necessary, advisable or convenient for the purpose of carrying into effect the provisions of this Act. 1 Geo. V. c. 73, s. 16.

CHAPTER 237.

An Act for the Prevention of Accidents by Fire in
Hotels and other like Buildings.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as *The Prevention of Accidents by Fire in Hotels Act*. 3-4 Geo. V. c. 63, s. 1. Short title.

2. In this Act, Interpreta-
tion.

(a) "Hotel" shall mean and include any inn, tavern, "Hotel."
public house or place of refreshment where lodg-
ings are let, furnished or provided for the public;

(b) "Inspector" shall have the same meaning as in *The* "Inspector."
Rev. Stat.
c. 215.
Liquor License Act;

(c) "License District" shall have the same meaning as "License
District."
Rev. Stat.
c. 215.
in *The Liquor License Act*. 3-4 Geo. V. c. 63, s. 2.

3.—(1) Every hotel exceeding two storeys in height shall have at least one permanent outside stairway or ladder from each landing or floor above the first storey and extending to at least the first storey. Hotels to
have outside
stairways
or ladder
above first
storey.

(2) The stairway or ladder shall be built of iron and firmly attached to the wall of the building, and shall be supplied with a hand-rail on each side, and shall be of sufficient strength to sustain a weight of at least one thousand pounds. To be of
iron and
firmly
attached to
wall and
with hand-
rail.

(3) It shall be unlawful to carry on the business of a hotelkeeper in any such building unless the provisions of subsections 1 and 2 are complied with. 3-4 Geo. V. c. 63, s. 3. Contra-ven-
tion.

4. It shall be the duty of the owner of the hotel to erect and maintain such stairway or ladder, and of the keeper or proprietor of the hotel to keep the way or passage to the stairway or ladder at all times unobstructed and the access to it free. 3-4 Geo. V. c. 63, s. 4. Duty of
owner.

Of hotel
keeper.

5. If by reason of the default of any owner, after reasonable notice requiring him to erect the same, a keeper or proprietor is compelled to erect a ladder or stairway under the provisions of this Act the keeper or proprietor shall have a right of action or set-off against the owner for all actual Right of
action or
set off by
keeper, etc.,
against owner.

necessary and reasonable disbursements made by him by reason of the default of the owner. 3-4 Geo. V. c. 63, s. 5.

Fire escapes
to be kept
in all bed-
rooms.

6.—(1) The keeper or proprietor of every hotel shall provide and keep in each sleeping apartment or bed-room above the ground floor a fire escape for the use of guests occupying the same.

What
deemed a
sufficient
fire escape.

(2) Such fire escape shall be sufficient if it consists of a rope not less than three-quarters of an inch in thickness of sufficient length to reach from the room or apartment in which it is kept to the ground below, kept in a coil or other convenient position in the bed-room or apartment, with proper, secure and convenient fastenings or appliances at the outside window or opening to which one end of the rope may be safely secured or fastened. 3-4 Geo. V. c. 63, s. 6.

Other out-
side fire
escapes may
be approved
of by
inspector.

7. If an hotel is provided with outside stationary or other fire escapes, differing from what is herein prescribed, by means of which, in the opinion of the inspector of the license district in which the hotel is situate, a reasonably safe and convenient means of egress from the sleeping apartments or bed-rooms is provided in case of fire, the same shall be deemed a compliance with this Act so far as relates to all sleeping apartments or bed-rooms from the outside windows or openings of which there is access to such fire escapes; but the keeper or proprietor of such hotel shall procure a certificate from the inspector certifying to the sufficiency of such fire escapes; and a copy of the certificate shall be transmitted by the inspector to the clerk of the municipality in which the hotel is situate. 3-4 Geo. V. c. 63, s. 7.

Notice as to
fire escapes
to be posted
in rooms.

8. The keeper or proprietor of every hotel shall, in addition to the notices which he is now required by law to keep posted up in each sleeping apartment or bed-room, also keep posted up therein a notice calling attention to the fire escapes and containing full directions for the use of the same, as well as a statement of the situation of the outside stairway or ladder and of the means of access to the same. 3-4 Geo. V. c. 63, s. 8.

Penalty.

9.—(1) If an owner, lessee, keeper or proprietor of any hotel neglects to observe any of the provisions of this Act he shall incur a penalty for each offence of not less than \$20 or more than \$200, recoverable under *The Ontario Summary Convictions Act*.

Rev. Stat.
c. 90.

Continuance
of neglect
to consti-
tute new
offence.

(2) A conviction for any such offence shall not be a bar to a prosecution for a continuance of such neglect subsequent to the conviction, but such continuance shall constitute a new offence. 3-4 Geo. V. c. 63, s. 9.

Enforcement
of Act.

10. It shall be the duty of the inspector for the license district in which the hotel is situate to take all necessary proceedings to enforce this Act. 3-4 Geo. V. c. 63, s. 10.

11. Nothing in this Act shall affect any by-law relating to the matters mentioned herein lawfully passed by a municipal council, or the authority of a municipal council to pass any such by-law so far as such by-law imposes additional or more stringent requirements than those imposed by this Act. ^{By-law of municipal council not to be affected.}
 3-4 Geo. V. c. 63, s. 11.

CHAPTER 238.

An Act to require the Owners of Threshing and other
Machines to guard against Accidents.

HIS MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

Short title.

1. This Act may be cited as *The Threshing Machines Act*.

Certain machines to be so protected as to prevent injury to persons near them.

2.—(1) Every person owning or running a threshing machine, wood-sawing or other machine, which is connected to a horse-power by means of a tumbling rod or line of shafting, shall cause each of the knuckles, couplings or joints and jacks of such tumbling rod or line of shafting to be safely boxed or secured while running, with wood, leather or metal covering, in such manner as to prevent injury to persons passing over or near such tumbling rod, and the knuckles, couplings or joints and jacks thereof; and shall cause all oiling cups attached to arbors or journals to which driving belts are attached, to be furnished with tubes of tin or other material, which shall extend above the belts in such manner as to prevent injury to a person oiling the machine when it is in motion; and shall cause a driver's platform of sufficient size to cover the gearing of the horse-power to be so placed on it when used for driving machinery as to prevent an injury to any person from contact with such gearing. R.S.O. 1897, c. 265, s. 1.

No action for services rendered if provisions of this Act are not complied with.

(2) No action shall be maintained, nor shall any legal liability exist, for services rendered by or with any such machine, where the provisions of this section have not been complied with. R.S.O. 1897, c. 265, s. 3.

Penalty for non-compliance with provisions of this Act.

3. Any person owning or running a threshing, woodsawing or other machine, connected to a horse-power by means of a tumbling rod or line of shafting, who neglects or refuses to comply with the provisions of this Act, shall incur a penalty of not less than \$1 nor more than \$20, recoverable under *The Ontario Summary Convictions Act*. R.S.O. 1897, c. 265, s. 2.

Rev. Stat. c. 90.

Application of penalties.

4. All penalties imposed and collected under this Act shall be paid, one-half to the complainant or prosecutor, and the other half to the treasurer of the school section in which the offence was committed, for the use of the public school in such section. R.S.O. 1897, c. 265, s. 4.

5. All proceedings against any person for a violation of section 2 of this Act shall be commenced within thirty days after the commission of the offence. R.S.O. 1897, c. 265, s. 5. ^{Limitation of prosecution.}

6. A conviction under this Act shall not be quashed for any defect in the form thereof, or for any omission or informality in any summons or other proceeding under this Act, so long as no substantial injustice results therefrom. R.S.O. 1897, c. 265, s. 6. ^{Informalities in conviction.}

CHAPTER 239.

An Act respecting Offensive Weapons.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. **1.** This Act may be cited as *The Offensive Weapons Act*.
1 Geo. V. c. 66, s. 1.

Sale of
certain
weapons
to unau-
thorized
per-
sons pro-
hibited.

R.S.C. c. 146.

Penalty.

2. Every person who exposes for sale, offers for sale or sells any bowie-knife, dirk, dagger, stiletto, metal knuckles, skull cracker or slung shot, or who sells a revolver, pistol or air gun to any person other than one holding a certificate issued under section 118 of *The Criminal Code*, or one, being over 18 years of age, who produces to and leaves with the vendor a permit in writing, signed by the Superintendent of Provincial Police, or a chief constable of a city or town, allowing him to purchase a revolver, pistol or air gun, shall incur a penalty of not less than \$25 nor more than \$200, and upon conviction may also be imprisoned for a term not exceeding six months; and the bowie-knife, dirk, dagger, stiletto, metal knuckles, skull cracker or slung shot, revolver, pistol or air-gun so exposed or offered for sale, or sold by such person, shall be confiscated by the police magistrate or justice and transferred to the Superintendent of Provincial Police or destroyed as such magistrate or justice may see fit. 1 Geo. V. c. 66, s. 2.

Record
of sales.

3.—(1) Every person who sells a revolver, pistol or air gun under the provisions of section 2 without keeping a record of the date of the sale, name of maker, serial number of such revolver, pistol or air gun, and the name, address and occupation of the purchaser, or who sells or exposes or offers for sale any revolver or pistol which does not bear a serial number and the maker's name shall incur a penalty of not less than \$25 nor more than \$200, and upon conviction may also be imprisoned for a term not exceeding six months; and the revolver, pistol or air gun so exposed or offered for sale, or sold by such person, shall be confiscated by the police magistrate or justice and transferred to the Superintendent of Provincial Police, or destroyed as such magistrate or justice may see fit.

Inspection.

(2) The record referred to in subsection 1 may be inspected at any time by any peace officer and a copy thereof

shall be transmitted by the person making the sale to the Superintendent of Provincial Police within seven days after the 31st March, 30th June, 30th September, and 31st December in each year, and in default the person making the sale shall incur a penalty not exceeding \$50. 1 Geo. V. c. 66, s. 3.

4. Every peace officer may search any person who he has reason to believe and does believe is violating any of the provisions of sections 115, 116, 117, 118, 120, 121, 123, 124, and 127 of *The Criminal Code*, and may seize any of the weapons which such person is illegally carrying, and any weapon seized under this section shall be confiscated and handed over to the Superintendent of Provincial Police or to the chief or high constable of the municipality to be by him transferred to the Superintendent of Provincial Police or destroyed as he may see fit. 1 Geo. V. c. 66, s. 4. Search of person and seizure.

5. If any of the weapons mentioned in section 2 is found upon a person believed not to be a native of Canada by the constable making the search or by the justice of the peace or magistrate before whom such person is charged with an offence, he shall report such facts to the Provincial Secretary and the Provincial Secretary may communicate with the Minister of the Interior with the view to the deporting of such person under *The Immigration Act*. 1 Geo. V. c. 66, s. 5. Finding weapons on foreigners.

6. The Lieutenant-Governor in Council may make such regulations as shall be deemed necessary or convenient for carrying into effect the provisions of this Act. 1 Geo. V. c. 66, s. 5. Regulations.

7. *The Ontario Summary Convictions Act* shall apply to prosecutions under this Act. Application of Rev. Stat. c. 90.

10. PROTECTION OF PROPERTY.

CHAPTER 240.

An Act respecting Reforestation by Counties.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Counties Reforestation Act*. 1 Geo. V. c. 74, s. 1.

County by-laws acquiring lands for reforestation purposes.

2. The municipal council of a county may pass by-laws:—

- (a) For acquiring by purchase, lease or otherwise such land designated in the by-law as the council may deem suitable for reforestation purposes;
- (b) For planting land so acquired and for preserving and protecting the timber thereon;
- (c) For the management of such land and the sale or other disposal of the timber grown thereon;
- (d) For the issuing of debentures from time to time for the purpose of providing for the purchase of such land to an amount not exceeding \$25,000 to be owing at any one time. 1 Geo. V. c. 74, s. 2.

Approval of by-law by Minister of Agriculture.

3. No by-law shall be finally passed under this Act until the same shall have been approved in writing by the Minister of Agriculture. 1 Geo. V. c. 74, s. 3.

Powers of certain township councils.

4.—(1) Municipal Councils of townships in districts without county organization shall have all the powers, privileges and authority conferred by clauses (a), (b) and (c) of section 2 on councils of counties.

Idem.

(2) The councils of such townships shall have power and authority to levy by special rate a sum not exceeding \$200 in any year for the purpose of providing for the purchase of such lands. 1 Geo. V. c. 74, s. 4.

CHAPTER 241.

An Act to preserve the Forests from
Destruction by Fire.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Forest Fires Prevention Act*. 3-4 Geo. V. c. 64, s. 1. Short title.

2. In this Act, Interpretation.
“Minister” shall mean the Minister of Lands, Forests and Mines. 3-4 Geo. V. c. 64, s. 2. “Minister.”

3.—(1) The Lieutenant-Governor in Council may, by proclamation, declare any part of Ontario described in the proclamation a fire district. Proclamation of district.

(2) Such proclamation shall be published in the *Ontario Gazette*, and the part so described shall from and after publication be a fire district within the meaning of this Act. Publication.

(3) The Lieutenant-Governor in Council may by proclamation declare that such part of Ontario shall no longer be a fire district. 3-4 Geo. V. c. 64, s. 3. Revocation.

4. No person shall set out or start, or cause to be set out or started, any fire in or near the woods within any fire district between the 1st day of April and the 1st day of November in any year except for the purpose of clearing land, cooking, obtaining warmth, or for some industrial purpose; and where a fire is started for any such purpose the obligations and precautions imposed by this Act shall be observed. 3-4 Geo. V. c. 64, s. 4. Fires not to be started except for certain purposes and in certain periods.

5. Every person who, between the 1st day of April and the 1st day of November, sets out or starts a fire within a fire district for the purpose of clearing land, shall exercise and observe every reasonable care and precaution in the setting out or starting of such fire and in the managing of and caring for it after it has been set out or started, in order to prevent the fire from spreading. 3-4 Geo. V. c. 64, s. 5. Precautions to be taken in case of clearing land.

6. Every person who, between the 1st day of April and the 1st day of November, within a fire district sets out or starts Precautions to be taken in case of cooking, etc.

a fire in a forest, or at a distance of less than half a mile therefrom, or upon any island, for cooking, obtaining warmth or for any industrial purpose, shall—

- (a) select a locality in the neighbourhood of which there is the smallest quantity of vegetable matter, dead wood, branches, brushwood, dry leaves or resinous trees;
- (b) clear the place in which he is about to set out or start the fire by removing all vegetable matter, dead trees, branches, brush-wood and dry leaves from the soil within a radius of ten feet from the fire;
- (c) exercise and observe every reasonable care and precaution to prevent such fire from spreading and carefully extinguish the same before quitting the place. 3-4 Geo. V. c. 64, s. 6.

Precautions
in cases of
matches,
burning
substances,
etc.

7. Every person who throws or drops any burning match, ashes of a pipe, lighted cigar or any other burning substance, or who discharges any fire-arm within such fire district shall be subject to the penalties imposed by this Act if he neglects completely to extinguish before leaving the spot the fire of such match, ashes of a pipe, cigar, wadding of the fire-arm or other burning substance. 3-4 Geo. V. c. 64, s. 7.

Act to be
read to em-
ployees by
heads of
surveys,
lumberers,
etc.

8. Every person in charge of any drive of timber, survey or exploring party, or of any other party requiring camp-fires for cooking or other purposes within a fire district shall provide himself with a copy of this Act, and shall call his men together and cause the Act to be read in their hearing and explained to them at least once in each week during the continuance of such work or service. 3-4 Geo. V. c. 64, s. 8.

Precautions
as to loco-
motives.

9.—(1) Every locomotive engine used on any railway which passes through any part of a fire district shall be provided with and have in use all the most approved and efficient means used to prevent the escape of fire from the furnace or ash-pan of such engine; and the smoke-stack shall be provided with a bonnet or screen of iron or steel wire netting, the size of the wire to be not less than number nineteen of the Birmingham wire gauge, or three sixty-fourth parts of an inch in diameter, and the netting shall contain in each inch square at least eleven wires each way at right angles to each other.

Contra-
ven-
tion.

(2) For every contravention of subsection 1 the company or person operating the railway shall incur a penalty of \$100. 3-4 Geo. V. c. 64, s. 9.

Duty of en-
gine drivers.

10. Every engine driver in charge of a locomotive engine passing over a railway within the limits of any fire district

shall see that all such appliances are properly used and applied so as to prevent as far as practicable the escape of fire from the engine. 3-4 Geo. V. c. 64, s. 10.

11. Every person who contravenes any provision of this ^{Penalty.} Act, except those of section 9, shall incur a penalty not exceeding \$50. 3-4 Geo. V. c. 64, s. 11.

12. The penalties imposed by or under the authority of ^{Recovery of penalties.} this Act shall be recoverable under *The Ontario Summary Rev. Stat.* *Convictions Act.* 3-4 Geo. V. c. 64, s. 12. ^{c. 90.}

13. Nothing in this Act shall limit or interfere with the ^{Right of} right of any person to bring and maintain a civil action for ^{action for} damages occasioned by fire. 3-4 Geo. V. c. 64, s. 13. ^{damages preserved.}

14. For the more effectual prevention or suppression of ^{Appoint-} fires on the land of the Crown not under timber license ^{ment of} or other form of authority to cut and remove the timber there- ^{rangers for} from the Minister may appoint such number of persons as ^{lands not} he may see fit, to be called fire rangers, who shall be subject ^{under license.} to his instructions, and shall be paid for their services out of any money appropriated by this Legislature and voted by ^{Remuneration.} the Assembly for that purpose. 3-4 Geo. V. c. 64, s. 14.

15.—(1) Where land of the Crown is under timber license, ^{Appoint-} or other form of authority to cut and remove the timber ^{ment of} therefrom the Minister may appoint such number of fire ^{rangers for} rangers as the timber licensee or holder of such other form ^{lands not} of authority may request, and in the absence of such request, ^{under license.} where in the opinion of the Minister such appointment is necessary in the public interest and for the carrying out of the purposes of this Act, he may appoint such number of fire rangers as he sees fit; and in such cases the remuneration to be paid such fire rangers and the expenses necessarily incurred by them in the performance of their duties shall be payable by the licensee or holder of such authority, or the Minister may pay the amount of such remuneration and ex- ^{Remuneration.} penses out of any money appropriated by this Legislature and voted by the Assembly for that purpose and may charge the timber licensee or holder of such authority with such amount, which shall be and remain a charge on the timber limit or other area covered by such authority until paid as fully and effectually as if the same were for unpaid timber dues or ground rent, and in respect of the recovery thereof the Minister shall have all the rights, powers and authority now possessed by him for the recovery of unpaid timber dues or ground rent.

(2) Where any such licensee or holder is desirous of hav- ^{When licensee} ing fire rangers appointed he shall submit to the Minister ^{holder re-} a list of persons for such appointment, and should any of such ^{quests ap-} ^{pointment} ^{of rangers.}

persons in the opinion of the Minister be unfit for the duties of fire ranger he may refuse to appoint them, or after appointment may discharge them and may substitute suitable and qualified persons in their place.

Duties of
fire rangers.

(3) Every fire ranger shall have power in cases of danger or emergency to summon such help or assistance for the prevention or suppression of fire as he may deem necessary, and every person so summoned and assisting shall receive such reasonable remuneration for his services as, subject to the approval of the Minister, the fire ranger summoning him may deem proper; and all expenses so incurred and approved shall be deemed to have been necessarily incurred under the provisions of this Act and shall be payable in the manner provided by subsection 1.

Other duties
of fire
rangers.

(4) The fire rangers shall perform such other duties, receive such wages and be subject to such conditions as may be provided by regulations made by the Lieutenant-Governor in Council. 3-4 Geo. V. c. 64, s. 15.

Government
agents to
enforce Act.

16. It shall be the special duty of every Crown land agent, woods and forest agent, free grant agent, bush ranger and fire ranger to enforce the provisions of this Act, and in all cases coming within his knowledge to prosecute every person guilty of a contravention of this Act. 3-4 Geo. V. c. 64, s. 16.

Temporary
appoint-
ment of
justices of
the peace
for the en-
forcement
of Act.

17.—(1) The Lieutenant-Governor in Council may by commission appoint for a limited period any Crown timber agent or wood or fire ranger a Justice of the Peace for the purpose of taking cognizance of offences against the provisions of this Act, and he shall be a Justice of the Peace in and for every county and district of Ontario, or shall have such other territorial jurisdiction as is specified in his commission.

Powers of
constable.

(2) The person so appointed may by writing under his hand appoint for a limited period one or more constables for the purposes of this Act who shall have all the powers, rights and privileges for such purposes of a constable under *The Constables Act*. 3-4 Geo. V. c. 64, s. 17.

Rev. Stat.
c. 94.

Appointment
of fire
rangers on
railway con-
struction
work.

18. During the construction and after the completion of any railway passing through any of the land of the Crown, whether under timber license or not, the Minister may appoint as many fire rangers as he may see fit, for the purposes of this Act, whose duty it shall be to enforce the provisions of this Act along and adjacent to the line of such railway, and the expenses incident to and connected with such fire ranging shall be a debt due to the Crown from the railway company concerned payable upon demand of the Minister. 3-4 Geo. V. c. 64, s. 18.

CHAPTER 242.

An Act to authorize the Appointment of Fire Guardians.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Fire Guardians Act*. Short title.
2 Geo. V. c. 62, s. 1.

2.—(1) The council of a township may, on the petition of Appointment of fire guardians. one-third of the ratepayers, at any meeting to be held before the 1st day of April in any year, appoint by by-law not less than two resident freeholders for each polling subdivision within the municipality to carry out the provisions of this Act.

(2) The persons so appointed shall be called “Fire Guardians” and shall hold office until the first meeting of a new Tenure of office. council elected after their appointment and until their successors are appointed. 2 Geo. V. c. 62, s. 2.

3. No person shall, after the passing of such by-law, set out fire, or set fire to any brush heap or other combustible material, in any field, clearance or place in such township where the same would be likely to spread, between the first day of July and the first day of October in any year, without having first obtained permission in writing from one of the fire guardians. Leave to be obtained before setting out fires.
2 Geo. V. c. 62, s. 3.

4. Such permission shall not be pleaded or given in evidence in any action for negligently setting out fire, or in extenuation of so doing, or in mitigation of damages; but the absence of such permission shall be *prima facie* evidence of negligence. Leave not to be relied on in actions for negligence.
2 Geo. V. c. 62, s. 4.

5. A fire guardian on being requested to grant permission to set out fire shall examine the place at which it is intended to set out the fire and the adjacent land and the timber, trees and other property thereon, and he shall refuse such request if, in his opinion, it would not be safe to set out the fire. Inspection by fire guardian before granting leave.
2 Geo. V. c. 62, s. 5.

6. The council may, by the by-law, make provision for the payment to the fire guardians for their services and may Matters to be provided for in the by-law. fix a penalty to be imposed upon fire guardians refusing or

neglecting to perform their duties under this Act or the by-law. 2 Geo. V. c. 62, s. 6.

Penalty.

7. Any person who contravenes the provisions of section 3 shall incur a penalty not exceeding \$100, recoverable on information of any resident ratepayer in the municipality before a police magistrate or two justices of the peace sitting together under *The Ontario Summary Convictions Act*. 2 Geo. V. c. 62, s. 7.

Rev. Stat. c. 90.

Application of
penalty.

8. The complainant shall be entitled to one moiety of the penalty and the other moiety shall be paid over to the treasurer of the municipality. 2 Geo. V. c. 62, s. 8.

When Act
not to apply.

9. This Act shall not apply to any portion of Ontario which under *The Fire Rangers Act*, chapter 267 of the Revised Statutes, 1897, or under *The Forests Fires Protection Act* has been declared a fire district. 2 Geo. V. c. 62, s. 9.

Rev. Stat.
c. 241.

CHAPTER 243.

An Act to provide Means of Extinguishing
Fires in Townships.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Fires Extinguishment Act*. Short title.
3-4 Geo. V. c. 65, s. 1.

2.—(1) The council of a county may provide by by-law By-law of county council giving powers. that fire guardians, fence-viewers, overseers of highways or pathmasters, appointed by township councils, whenever the woods or prairies in any township are on fire so as to endanger property shall order as many of the male inhabitants of such township residing in the vicinity of the place where such fire is as may be deemed necessary to repair to the place where such fire prevails and assist in extinguishing the same or in stopping its progress.

(2) Where there is no county council the council of any By-law of township council. township may pass such by-law. 3-4 Geo. V. c. 65, s. 2.

3.—(1) Every such officer shall give to every person employed by him under section 2 a certificate of the number of Work done to be allowed for as statute labour. days' work done by him, and such work shall be allowed to him in his next year's statute labour, or, if such person is not liable to perform statute labour or not so many days' statute labour as the number mentioned in such certificate, the council may direct that such work shall be paid for out of the funds of the municipal corporation, and such person shall be entitled to be paid by the township treasurer the amount of such certificate or the amount not credited on the next year's statute labour, as the case may be.

(2) The county council may also provide for the application Application of commutation fund by townships. by the township councils of so much of the commutation of statute labour fund as may be required for assisting to extinguish or stop the progress of fires within their respective municipalities. 3-4 Geo. V. c. 65, s. 3.

4. If a township council neglects to provide for the application Upon default of townships, county may provide for payment of work. of so much of the commutation of statute labour fund, or for payment of such amount as may be required for the purposes mentioned in the next preceding section, the county

council may do so and may pay the amount of such certificates and impose upon the township so in default a rate sufficient for that purpose to be levied and collected in the manner provided by *The Assessment Act* for the collection of a county rate. 3-4 Geo. V. c. 65, s. 4.

Rev. Stat.
c. 195.

Penalty for
refusing to
assist in ex-
tinguishing
fires.

Rev. Stat.
c. 90.

5. Every person who refuses or neglects to turn out and work under any fire guardian, fence-viewer, overseer of highways or pathmaster, who has ordered him to turn out for that purpose, shall incur a penalty not exceeding \$20, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 65, s. 5.

CHAPTER 244.

An Act to protect Beaches and Shores and Beds of Rivers and Streams.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Beach Protection Act*. Short title.
2 Geo. V. c. 63, s. 1.

2. In this Act "vessel" shall include boat, scow, raft or other craft. Interpretation.
2 Geo. V. c. 63, s. 2.

3. Nothing in this Act shall apply to property belonging to or subject to the legislative control of the Dominion of Canada. Act not to affect Dominion property.
2 Geo. V. c. 63, s. 3.

BEACHES AND SHORES.

4.—(1) No person shall take or carry away in any vessel, or otherwise transport by water, any sand, gravel or stone from the beach, shore or waters of Lake Erie, Lake Ontario or Lake Huron, so far as they are within the legislative jurisdiction of Ontario, or from any bar or flat, within such jurisdiction, adjoining any channel or entrance to such lakes unless such sand, gravel or stone is taken from a locality distant three rods or more beyond low water mark; or if the same is taken within that distance, unless such person has the written consent of the owner of the beach, shore, bar or flat; or, if such beach, shore, bar or flat belongs to Ontario, unless such person has the consent of either the Lieutenant-Governor in Council or of the owner of the land to which such beach, shore, bar or flat is adjacent. Removal of sand, stones, etc., from beaches forbidden. Exceptions.

(2) The consent of the Lieutenant-Governor in Council shall be sufficient without the consent of the owner of the adjacent beach, shore, bar or flat; and such consent of the Lieutenant-Governor in Council shall be necessary, where the Lieutenant-Governor in Council issues a proclamation so declaring with reference to any locality described in the proclamation. Consent of Lieutenant-Governor in Council.
2 Geo. V. c. 63, s. 4.

5. No person, without the consent required by this Act, shall land or go upon such beach, bar, flat or shore, for the purpose of removing, or assisting to remove, any gravel, sand or stone therefrom. Landing on beaches, etc., to remove sand, etc., forbidden.
2 Geo. V. c. 63, s. 5.

Possession
of sand, etc.,
with intent
to remove
forbidden.

6. No person shall have on board his vessel, or on a vessel in his possession, any sand, gravel or stone, taken without the consent required by this Act, from any such beach, bar, flat or shore, with intent to carry the same away. 2 Geo. V. c. 63, s. 6.

Issue of
search war-
rant.

7. If any person makes oath before a Justice of the Peace, that he has reason to believe, and does believe that sand, gravel or stone, in respect to which a violation of the provisions of sections 4, 5 or 6 has been committed, is on board any vessel, or at any place, the Justice of the Peace shall issue a search warrant directed to any sheriff, police officer, constable or bailiff, who shall forthwith proceed to search the vessel or place; and if any sand, gravel or stone is found therein or thereon, he shall seize the same and the vessel, if any, in which the same is contained, and shall keep them secure until final action as hereinafter provided is had thereon. 2 Geo. V. c. 63, s. 7.

Prosecution.

8. The owner, master, or person in possession of the vessel shall without further information laid be summoned forthwith by the Justice who issued the warrant, to appear before a Police Magistrate, or two Justices of the Peace; and if such owner, master or person in possession fails to appear, or if it is shewn to the satisfaction of the Police Magistrate or Justices of the Peace that a violation of section 6 has been committed, the Magistrate or Justices may convict the owner, master or person in possession of the vessel. 2 Geo. V. c. 63, s. 8.

Burden of
proof.

9. If any question arises as to the place from which the sand, gravel or stone was taken, the burden of proving the right to take the same shall be upon the owner, master or person in possession of the vessel whereon the same was found and seized. 2 Geo. V. c. 63, s. 9.

Penalty.

10.—(1) Any person contravening any of the preceding provisions of this Act shall incur a penalty of not less than \$10 or more than \$40 for each offence.

Application
of penalty.

(2) One moiety of the penalty shall belong to the prosecutor, and the other moiety to the owner of the land, or if there is no prosecutor other than the owner, then wholly to the owner.

Sale of
vessel for
payment of
penalty.

(3) In addition to all other remedies provided by *The Ontario Summary Convictions Act* for the recovery of the penalty, the same, if not paid in accordance with the conviction, may be levied by the sale of the vessel under the warrant of the convicting Magistrate or Justices.

Payment of
balance to
owner.

(4) Upon return being made of the sale after satisfying the penalty and the costs of the sale, the overplus, if any, shall be paid to the owner of the vessel. 2 Geo. V. c. 63, s. 10.

BEDS OF RIVERS AND STREAMS.

11.—(1) No person shall remove any stone, gravel, earth or sand from the bed of any river, stream or creek running between two municipalities, or over which a bridge has been erected, or through or under which a drainage pipe or water main has been laid by or at the instance of a municipal corporation, so as to endanger the safety of or injure such bridge, pipe or main, without the consent of the council of the municipality or municipalities within whose limits the stone, gravel, earth or sand is to be taken. Removal of stones, etc., from beds of certain streams prohibited.

(2) Any person who contravenes this section shall, for each offence, incur a penalty of not less than \$10, or more than \$25. Penalty.

(3) Prosecutions under this section shall be taken before a Police Magistrate or two Justices of the Peace. 2 Geo. V. c. 63, s. 11. Prosecution.

PROCEDURE ON PROSECUTIONS.

12.—(1) The provisions of *The Ontario Summary Convictions Act* shall apply to prosecutions under this Act unless where otherwise expressly provided. Recovery of penalties. Rev. Stat. c. 90.

(2) The Police Magistrate or Justices shall, in the conviction, state to whom the penalty is to be paid, or between whom the same is to be apportioned. 2 Geo. V. c. 63, s. 12. Magistrates to state application of penalty.

13. In addition to the mode provided by *The Ontario Summary Convictions Act* for the service of a summons or other proceeding, the same may be served by leaving it, or a copy thereof, for the person to be served, on board any vessel to which he belongs, with the person being, or appearing to be, in charge or command of the vessel. 2 Geo. V. c. 63, s. 13. Service of proceedings.

14. In any information or complaint, laid under sections 4 to 6, it shall be sufficient to allege that the act charged was done without consent; and if at the hearing it appears that the act charged was committed by the person charged in the information or complaint, the burden of proving consent or consents by this Act required, shall be upon him. 2 Geo. V. c. 63, s. 14. Burden proof of consent.

15. The name of the owner in the information may be changed to that of any other owner to accord with the evidence, and no question which may arise as to the title to the land shall affect the authority of the Magistrate or Justices to determine whether the consent of the owner has been obtained. 2 Geo. V. c. 63, s. 15. Variance between information and evidence as to ownership.

16. Nothing in this Act shall affect the provisions of any other Act under which the right to take sand or gravel from the shore or bed of any lake, river, stream, creek or other water may be lawfully conferred. 2 Geo. V. c. 63, s. 16. Saving as to rights given under other Acts.

CHAPTER 245.

An Act respecting Beaches and River Beds.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Beaches and River Beds Act*. 2 Geo. V. c. 64, s. 1.

Application to Railway and Municipal Board by township.

2. Where a petition signed by thirty or more resident ratepayers in a township is presented to the municipal council of the township praying that an application may be made to the Ontario Railway and Municipal Board for an order permitting the ratepayers in such township or in an adjoining municipality to take sand or gravel for use in such township or adjoining municipality for building and other purposes, from the shore or bed of any lake, river, stream, creek or other waters in the municipality within the area described in the petition, the council may apply for such order as hereinafter mentioned. 2 Geo. V. c. 64, s. 2.

Map or plan to accompany application.

3. The application shall be accompanied by a map or plan prepared by an Ontario Land Surveyor showing the area from which it is proposed that the sand or gravel should be taken and the map or plan shall show—

- (a) The location of any buildings, docks, landing places, boat-houses, bathing houses or other structures in such area and upon any lot immediately adjoining the same;
- (b) All existing roads or other means of access to such area;
- (c) The location of any roads which may be required to afford means of access to such area; and
- (d) Such other particulars as the Ontario Railway and Municipal Board may by general regulation require. 2 Geo. V. c. 64, s. 3.

Notice of application.

4. The application shall not be considered by the Board until notice thereof and of the time and place at which the same will be heard has been published once a week in some newspaper published in the county town of the county in which the described area is situate, or, if there is no newspaper so published, then in a newspaper published in the nearest city in the same county, and has been sent by regis-

tered post to any owner or occupant whose property is affected and to such other persons as the Chairman of the Board may direct at least thirty days before the hearing of the application. 2 Geo. V. c. 64, s. 4.

5. The Board shall at the time and place appointed hear ^{Hearing.} the council, and the petitioners or their counsel, and any owner or occupant of land which may be taken or used or affected in any manner by the granting of leave to take such sand. 2 Geo. V. c. 64, s. 5.

6. The order shall not authorize the removal of sand or gravel if it appears that such removal,— ^{When removal of sand or gravel not to be allowed.}

- (a) May cause the subsidence of or injury to or in any way interfere with any artificial work or structure having for its object the protection or formation of such beach, or the beautifying or protection of any adjoining land; or
- (b) Endanger in any manner the safety of the public or of any person using or passing over adjoining land; or
- (c) Injure, impair the beauty of or purpose of, or in any manner affect land used as an orchard, garden or pleasure ground, or as a summer residence or health resort; or
- (d) Injure or affect the safety of any highway or bridge; or
- (e) Injure or interfere in any manner with, or with the right of access to, any wharf, dock, landing stage, boat-house, bathing house, or any other structure erected for the convenience or pleasure of the public, or of the owners of adjoining land; or
- (f) That the beach, shore or bank from or opposite to which the sand or gravel is to be taken is used generally by the public or by the owners or occupants of adjoining land as a promenade, pleasure ground or play ground, or is resorted to largely for bathing and boating, and that the taking of such sand or gravel will interfere with the use of any land or land covered with water for such purposes; or
- (g) If the Board does not consider that there is a sufficient demand for such sand or gravel to render the granting of leave to take the same desirable. 2 Geo. V. c. 64, s. 6.

7. If the Board thinks fit to grant the application in whole or in part it may make an order specifying— ^{Order granting application.}

- (a) The places from which sand may be taken within the described area or any part thereof;
- (b) The means of access to be afforded for that purpose;
- (c) The compensation to be paid to the owner or occupant of any land to be passed over or from which such sand may be taken or which may be affected in any other manner by the granting of the application;
- (d) The times when and the quantities in which sand may be taken;
- (e) The tolls and charges to be paid for the taking of the sand;
- (f) The period during which the order is to remain in force. 2 Geo. V. c. 64, s. 7.

Township
by-law adopt-
ing order.

8. The council of the township may, by by-law, adopt the order and consent to be bound by its terms. 2 Geo. V. c. 64, s. 8.

Filing and
registering
order.

9. The order of the Board shall be in triplicate and shall be filed in the offices of the Board and of the clerk of the municipality, and, with the by-law, shall be registered in the registry office of the registry division in which the described area is situate. 2 Geo. V. c. 64, s. 9.

Finality of
order.

10. The order of the Board shall be final and shall not be subject to appeal, but at the expiration of the period named therein it may be renewed or a new order may be made upon the like application and subject to such terms and conditions as to compensation and tolls as the Board may deem just. 2 Geo. V. c. 64, s. 10.

Renewal.

Annual rate
to pay com-
pensation.

11.—(1) The council of the township shall annually raise by general rate any amount ordered by the Board to be paid to any person whose land is passed over or used for the purpose of taking sand or gravel or is affected thereby.

Tolls.

(2) The tolls and charges ordered by the Board to be paid shall be collected by the corporation of the municipality and may be applied in reduction of such rate. 2 Geo. V. c. 64, s. 11.

Crown
property not
affected.

12. No order made under this Act shall apply to or affect the property of the Crown until assented to by the Lieutenant-Governor in Council. 2 Geo. V. c. 64, s. 12.

Exemption
of any locality
by Order in
Council.

13. This Act shall not apply to any municipality or portion of a municipality declared by the Lieutenant-Governor in Council to be exempted therefrom. 2 Geo. V. c. 64, s. 13.

CHAPTER 246.

An Act to impose a Tax on Dogs and for the Protection of Sheep.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Dog Tax and Sheep Protection Act*. 2 Geo. V. c. 65, s. 1.

2. In this Act:—

- (a) "Dog" shall include bitch; Interpretation.
- (b) "Owner" shall include possessor or harbourer; and "owned" shall include possessed or harboured; "Dog."
- (c) "Sheep" shall include lamb. 2 Geo. V. c. 65, s. 2. "Owner."
"Owned."

TAX ON DOGS.

3.—(1) Subject to the provisions of paragraph 2 of section 406 of *The Municipal Act*, and of subsection 3 of this section, there shall be levied annually, in every local municipality, upon the owner of each dog therein, an annual tax of \$1 for a dog, if only one, and \$2 for each additional dog, owned by him, and \$3 for a bitch, if only one, and \$5 for each additional bitch owned by him. Annual tax on dogs.

(2) Upon the production of a certificate in writing of a veterinary surgeon that a bitch has been spayed, such bitch shall be taxed at the same rate as a dog. Spayed bitches.

(3) The owner of a kennel of pure-bred dogs which are registered in the "Canada Kennel Register," may in any year pay to the treasurer of the municipality \$10 as a tax upon such kennel for that year, and upon the production to the assessor of the treasurer's certificate of payment, the owner of such kennel shall be exempt from assessment and any further tax in respect of such dogs for that year. 2 Geo. V. c. 65, s. 3. Registered kennel.

4. The assessors shall, at the time of making their annual assessment, enter on the assessment roll, in a column prepared for the purpose, opposite the name of every person assessed, and also opposite the name of every resident inhabitant not otherwise assessed, being the owner of any dog, the number of dogs, bitches and spayed bitches, distinguishing them, by him owned. 2 Geo. V. c. 65, s. 4. Duty of assessors.

Duty of owners of dogs.

5. The owner of any dog shall be required by the assessors to deliver to them, in writing, a statement of the number of dogs owned by him; and for any neglect or refusal to do so, and for every false statement made in respect thereof, he shall incur a penalty of \$5. 2 Geo. V. c. 65, s. 5.

Penalty.

Tax entered on collector's roll.

6. The collector's roll shall contain the name of every person entered on the assessment roll as the owner of any dog with the tax hereby imposed, in a separate column; and the collector shall proceed to collect the same, and at the same time and with the like authority, and make returns to the treasurer of the municipality, in the same manner, and subject to the same liabilities in all respects for paying over the same to the treasurer, as in the case of other taxes levied in the municipality. 2 Geo. V. c. 65, s. 6.

Destruction of dog in default of payment.

7.—(1) Where any person has been assessed for a dog, and the collector has failed to collect the tax imposed by this Act, he shall report the same under oath to a Justice of the Peace, who shall, by an order under his hand and seal, to be served by any constable, require such dog to be destroyed by the owner thereof, or by a constable.

Powers of constable.

(2) For the purpose of carrying out such order the constable may enter on the premises of such owner and destroy such dog.

Penalty.

(3) A collector who neglects to make such report within the time required for paying over the taxes levied in the municipality, shall incur a penalty of \$10. 2 Geo. V. c. 65, s. 7.

Tax to form fund for damages, etc.

8. The money collected and paid to the municipality under the preceding sections, shall constitute a fund for satisfying such damages as arise in any year from dogs killing or injuring sheep in the municipality, and the residue, if any, shall form part of the funds of the municipality for the general purposes thereof; but when it becomes necessary in any year for the purpose of paying charges on the same, the fund shall be supplemented to the extent of the amount which has been applied to the general purposes of the municipality. 2 Geo. V. c. 65, s. 8 (1).

PROTECTION OF SHEEP.

Killing dogs worrying sheep, etc.

9. Any person may kill any dog which he sees pursuing, worrying or wounding any sheep. 2 Geo. V. c. 65, s. 9.

Right to kill dog in field giving tongue, etc.

10. The owner or occupant of a farm, or his servant, who finds a dog without lawful permission in an enclosed field on such farm giving tongue and terrifying any sheep on such farm may kill such dog. 2 Geo. V. c. 65, s. 10.

Right to kill dog straying on a farm where sheep kept.

11.—(1) Any person may kill any dog which he finds straying between sunset and sunrise on any farm whereon sheep are kept.

(2) No dog so straying which belongs to or is kept or harboured by the occupant of any premises next adjoining such farm or next adjoining that part of any highway or lane which abuts thereon, nor any dog so straying either when securely muzzled or when accompanied by or being within reasonable call or control of its owner or of any person having the charge or care thereof, shall be so killed unless there is reason to believe that such dog, if not killed, is likely to pursue, worry, wound or terrify sheep then on such farm. When dog straying not to be killed.
2 Geo. V. c. 65, s. 11.

12.—(1) On complaint made in writing on oath before a Justice of the Peace, that any person is the owner of a dog which has within six months previous worried or injured or destroyed any sheep, the Justice may issue his summons, directed to such person, stating shortly the matter of the complaint, and requiring such person to appear before him, at a certain time and place therein stated, to answer such complaint, and be further dealt with according to law. Persons owning dogs addicted to worrying may be summoned before a Justice of the Peace.

(2) In case of conviction, the Justice may make an order for killing the dog, describing the same according to the description given in the complaint and in the evidence, within three days, and in default thereof may, in his discretion, impose a penalty upon such person, not exceeding \$20. On conviction dog to be ordered to be destroyed and owner fined.

(3) All penalties imposed under this section shall be applied to the use of the municipality in which the defendant resides. Application of penalties.
2 Geo. V. c. 65, s. 12.

13. No conviction shall be a bar to any action by the owner or possessor of any sheep for the recovery of damages for the injury done to such sheep. Conviction no bar to action for damages.
2 Geo. V. c. 65, s. 13.

EXTENT OF LIABILITY OF OWNER OR KEEPER OF DOGS.

14.—(1) The owner of any sheep killed or injured by any dog shall be entitled to recover damage occasioned thereby from the owner of such dog, by an action for damages or by summary proceedings before a Justice of the Peace, on information or complaint before such Justice, who is hereby authorized to hear and determine such complaint, and proceed thereon in the manner provided by *The Ontario Summary Convictions Act* in respect to proceedings therein mentioned. Extent of liability of owner or keeper of dog. Rev. Stat. c. 90

(2) The aggrieved party may recover in such action or proceeding, whether or not the owner of such dog knew that it was vicious or accustomed to worry sheep. Owner's knowledge of habits immaterial.

(3) If it appears at the trial that the damage or some part thereof was the joint act of some other dog, and of a dog owned by the person charged, the Court, Judge or Justice may, by the judgment or conviction, apportion the damages. Apportionment of damage.

among and against the respective owners of the dogs, as far as they are known, in such proportions as may be deemed just.

Where owner of one of the dogs doing damage is unknown.

(4) If it appears at the trial that the damage was occasioned by a dog, the owner of which is known, and a dog the owner of which is unknown, or has not been summoned to appear, the Court, Judge or Justice may determine and adjudge as to the proportion of the damage which, having regard to the evidence adduced as to the strength, ferocity and character of the various dogs shewn to have been engaged in committing such damage, was probably done by the dogs the owners of which have been summoned to appear, and shall determine in respect thereof and apportion the damage which the Court, Judge or Justice determines to have been probably done by the dogs whose owners or keepers have been summoned, amongst the various owners or keepers who have been so summoned.

Procedure.

(5) The like proceedings may thereafter be had against the owners of the dogs which so contributed to the damage. 2 Geo. V. c. 65, s. 14.

Dogs known to worry sheep to be killed by owner.

15. The owner of any dog, to whom notice is given of any injury done by his dog to any sheep, or of his dog having chased or worried any sheep, shall, within forty-eight hours after such notice, cause such dog to be killed; and for every neglect so to do he shall incur a penalty of \$2.50 for each dog, and a further penalty of \$1.25 for each dog for every forty-eight hours thereafter, until the dog is killed, if it is proved in the proceedings for the recovery of such penalties, that such dog has worried or otherwise injured such sheep, unless the owner proves that it was not in his power to kill the dog. 2 Geo. V. c. 65, s. 15.

Penalty.

Liability of the municipality where damages cannot be levied by distress.

16. When the owner of any sheep so killed or injured proceeds against the owner of the dog which committed the injury, before a Justice of the Peace, and is unable on the conviction of the offender, to levy the amount ordered to be paid, for want of sufficient distress, the council of the municipality in which the offender resided at the time of the injury shall order its treasurer to pay to the aggrieved party two-thirds of the amount ordered to be paid by the Justice by the conviction, in addition to the costs of the proceedings before the Justice and before the council. 2 Geo. V. c. 65, s. 16.

SHEEP VALUERS.

Sheep valuers—appointment and duties of.

17.—(1) The council of every township, town or village may at the first meeting in each year appoint one or more persons, to be known as sheep valuers, whose duty it shall be to inspect the injury done to sheep by dogs in cases where the owner of the dog or dogs committing the injury cannot

be found, and the person aggrieved intends to make claim for compensation from the council of the municipality.

(2) The sheep valuer shall investigate the injury within forty-eight hours after notice thereof is given to him and shall forthwith make his report in writing to the Clerk of the municipality, giving in detail the extent of injuries and amount of damage done, and the report shall be acted upon by the council in adjusting the claim. 2 Geo. V. c. 65, s. 17.

Report on injuries.

COMPENSATION WHERE OWNER UNKNOWN.

18.—(1) The owner of any sheep killed or injured by any dog, the owner of which is not known, may within three months after the killing or injury apply to the council of the municipality in which such sheep was so killed or injured, for compensation for the injury; and if the council is satisfied that he has made diligent search and inquiry to ascertain the owner or keeper of such dog, and that he cannot be found, they shall award to the aggrieved party for compensation a sum not exceeding two-thirds of the amount of the damage sustained by him; and the treasurer of the municipality shall pay over to him the amount so awarded.

Provision for cases in which owner of dog not known.

(2) The council may, before determining, examine parties and witnesses under oath, which may be administered by any member of the council. 2 Geo. V. c. 65, s. 18.

Power to take evidence.

19. After the owner of a sheep has received any money from a municipal corporation under any of the preceding sections, his claim shall thenceforth belong to the municipal corporation, which may enforce the same against the offending party for its own benefit, by any means or form of proceeding that the owner was entitled to take for that purpose, but if the corporation recovers from the offender more than it paid to the owner, besides costs, it shall pay over the excess to the owner. 2 Geo. V. c. 65, s. 19.

After compensation paid by municipality, claims to belong to it.

20. The owner of any sheep killed or injured while running at large upon any highway or unenclosed land, shall have no right to compensation from a municipal corporation. 2 Geo. V. c. 65, s. 20.

Cases where owner of sheep, etc., has no compensation.

PROCEDURE.

21. Except as herein otherwise provided, *The Ontario Summary Convictions Act* shall apply to prosecutions under this Act. 2 Geo. V. c. 65, s. 21.

Procedure. Rev. Stat. c. 90.

CHAPTER 247.

An Act respecting Pounds.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Pounds Act*. 2 Geo. V. c. 66, s. 1.

Scope of Act saved by by-laws.

2. Except so far as varied by any by-law passed under the authority of paragraphs 52 to 55 of section 399 of *The Municipal Act*, this Act shall be in force in every city, town, township, and village in Ontario. 2 Geo. V. c. 66, s. 2.

Liability of owners or caretakers for damage done.

3. The owner or occupant of any land shall be responsible for any damage caused by any animal under his charge and keeping, as though such animal were his own property, and the owner of any animal not permitted to run at large by the by-laws of the municipality shall be liable for any damage done by such animal, although the fence enclosing the premises of the complainant was not of the height required by such by-laws. 2 Geo. V. c. 66, s. 3.

Case of Provisional Judicial Districts.

4.—(1) Damages shall not be recoverable in respect of injuries committed upon any land in a Provisional Judicial District by horses, cattle, sheep or swine straying on such land unless the animal so straying was running at large contrary to a municipal by-law.

Unless animal broke through or jumped over fence.

(2) Where there is no such by-law in force in the municipality or where such trespass was committed upon land in any part of such district not included in an organized municipality, no such damages shall be recoverable unless the animal has broken through or jumped over a fence then being in reasonably good repair and of the height of four and one-half feet.

Exception as to breachy animals.

(3) This section shall not apply to breachy or unruly animals. 3-4 Geo. V. c. 18, s. 41, *part*.

No bull ten months old to run at large.

5. No bull over the age of ten months shall be allowed to run at large in any part of such district not included in an organized municipality. 3-4 Geo. V. c. 18, s. 41, *part*.

Owner of bull liable for damages.

6. The owner of any bull running at large contrary to the provisions of the next preceding section shall be liable in damages for all injuries committed by such animal, and

also to a penalty not exceeding \$10, recoverable under the provisions of *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 18, s. 41, *part*.

7. If not previously replevied, the pound-keeper shall impound any horse, bull, ox, cow, sheep, goat, pig, or other cattle, geese or other poultry, distrained for unlawfully running at large or for trespassing and doing damage, delivered to him for that purpose by any person resident within his division who has distrained the same; or if the owner of geese or other poultry refuses or neglects to prevent the same from trespassing on his neighbour's premises after a notice in writing has been served upon him of their trespass, he shall incur a penalty not exceeding \$10. 2 Geo. V. c. 66, s. 4.

What animals to be impounded.

Poultry.

8. Where any animal has been impounded, the pound-keeper shall, within twenty-four hours, deliver to the clerk of the municipality a notice in writing containing a description of the colour, age and natural and artificial marks of the animal as nearly as may be. 2 Geo. V. c. 66, s. 5.

Notice to clerk as to animals impounded.

9. When the common pound of the municipality or place wherein a distress has been made is not secure, the pound-keeper may confine the animal in any enclosed place within the limits of the pound-keeper's division within which the distress was made. 2 Geo. V. c. 66, s. 6.

When the common pound is not safe.

10.—(1) The person distraining and impounding the animal shall, at the time of the impounding, deposit poundage fees, if demanded, and within twenty-four hours thereafter deliver to the pound-keeper duplicate statements in writing of his demands against the owner for damages, if any, not exceeding \$20, done by such animal, exclusive of poundage fees, and shall also give his written agreement, with a surety if required by the pound-keeper, in the form following, or in words to the same effect:

Statement of demand to be delivered to pound-keeper by impounder.

"I (or we, as the case may be) do hereby agree that I (or we) will pay to the owner of the (*describing the animal*) by me (A.B.) this day impounded, all costs to which the said owner may be put in case the distress by me the said (A.B.) proves to be illegal, or in case the claim for damages now put in by me the said (A.B.) fails to be established."

Form of agreement with pound-keeper.

(2) The owner of an animal impounded shall at any time be entitled to it, on demand made therefor, without payment of any poundage fees, on giving satisfactory security to the pound-keeper for all costs, damages and poundage fees that may be established against him. 2 Geo. V. c. 66, s. 7.

Release of animal on security being furnished.

11.—(1) If the animal distrained is a horse, bull, ox, cow, sheep, goat, pig or other cattle, and if the same is distrained by a resident of the municipality for straying within his premises, instead of delivering the animal to the pound-keeper, he may retain the animal in his own possession, pro-

When animal may be retained by distrainer.

vided he makes no claim for damages done by the animal, and duly gives the notices hereinafter required.

Notice to owner if known.

(2) If the owner is known he shall forthwith give to him notice in writing of having distrained the animal.

If unknown, notice to clerk of municipality.

(3) If the owner is unknown, the person distraining shall, within forty-eight hours, deliver to the clerk of the municipality a notice in writing of having distrained the animal, containing a description of its colour, age and natural and artificial marks, as nearly as may be.

Duty of clerk thereon.

(4) The clerk on receiving the notice, shall forthwith enter a copy thereof in a book to be kept by him for that purpose, and shall post it or a copy thereof, in some conspicuous place on or near the door of his office, and keep the same so posted for at least one week, unless the animal is sooner claimed by the owner.

If the animals are worth \$10 or over.

(5) If the animal or animals distrained at the same time is or are of the value of \$10 or more, the distrainer shall cause a copy of the notice to be published in a newspaper in the county or district once a week for three successive weeks. 2 Geo. V. c. 66, s. 8.

Notice of sale.

When sale may be made.

12. If an animal is impounded, notices for the sale thereof shall be given by the pound-keeper or person who impounded it within forty-eight hours afterwards, but no pig or poultry shall be sold until after four clear days, nor any horse or other cattle till after eight clear days from the time of impounding the same. 2 Geo. V. c. 66, s. 9.

If animal is not impounded, but retained.

13. If the animal is not impounded, but is retained in the possession of the person distraining it, if the animal is a pig, goat or sheep, the notices for the sale thereof shall not be given for one month, and if the animal is a horse or other cattle, the notices shall not be given for two months after the animal is distrained. 2 Geo. V. c. 66, s. 10.

Notice of sale unless redeemed.

14. The notices of sale shall be posted up for three clear successive days, in three public places in the municipality, and shall specify the time and place at which the animal will be publicly sold, if not sooner replevied or redeemed by the owner or some one on his behalf, paying the penalty imposed by law, if any, the amount of the injury, if any, claimed or decided to have been committed by the animal to the property of the person who distrained it, together with the lawful fees and charges of the pound-keeper and also of the fence-viewers, if any, and the expenses of the animal's keeping. 2 Geo. V. c. 66, s. 11.

Keeper or complainant to feed impounded cattle.

15. Every pound-keeper, and every person who impounds or confines, or causes to be impounded or confined, any animal in any common pound or in any open or close pound, or in any enclosed place, shall daily furnish the animal with good

and sufficient food, water and shelter, during the whole time that such animal continues impounded or confined. 2 Geo. V. c. 66, s. 12.

16.—(1) Every such person who furnishes the animal with food, water and shelter, may recover the value thereof from the owner of the animal, and also a reasonable allowance for his time, trouble and attendance in the premises. And may recover the value.

(2) Such value and allowance may be recovered, with costs, by summary proceeding before any Justice of the Peace within whose jurisdiction the animal was impounded, in like manner as fines, penalties or forfeitures for the breach of any by-law of the municipality may by law be recovered and enforced by a single Justice of the Peace; and the Justice shall ascertain and determine the amount of such value and allowance when not otherwise fixed by law, adhering, so far as applicable, to the tariff of pound-keepers' fees and charges established by the by-laws of the municipality. 2 Geo. V. c. 66, s. 13. In what manner such value may be recovered.

17. The pound-keeper, or person so entitled to proceed may, instead of such summary proceeding, enforce the remuneration to which he is entitled in manner hereinafter mentioned. 2 Geo. V. c. 66, s. 14. Other mode of enforcing.

18. If it is proved by an affidavit sworn before a Justice of the Peace, that the proper notices had been duly posted and published, then if the owner or some one for him does not before the sale of the animal, replevy or redeem the same, the pound-keeper who impounded the animal, or if the person who distrained it did not deliver it to a pound-keeper, but retained it in his own possession, then any pound-keeper of the municipality may publicly sell the animal to the highest bidder, at the time and place mentioned in the notices, and after deducting the penalty and the damages, if any, and the fees and charges, shall apply the proceeds in discharge of the value of the food and nourishment, loss of time, trouble and attendance so supplied, and of the expenses of driving or conveying and impounding or confining the animal, and of the sale and attending the same, or incidental thereto, and of the damage when legally claimable, not exceeding \$20, done by the animal to the property of the person by whom or at whose instance it was distrained, and shall return the surplus, if any, to the original owner of the animal, or if not claimed by him within three months after the sale, the pound-keeper shall pay such surplus to the treasurer of the municipality. 2 Geo. V. c. 66, s. 15. Sale, how effected, etc., and purchase money, how applied.

19.—(1) If the owner, within forty-eight hours after the delivery of the statements provided for in section 10, disputes the amount of damages so claimed, the amount shall be decided by the majority of three fence-viewers of the municipality, one to be named by the owner of the animal, one by the per- Disputes regarding demand for damages, how determined.

son distraining or claiming damages, and the third by the pound-keeper.

Fence-viewers to view and appraise damage.

(2) The fence-viewers or any two of them shall, within twenty-four hours after notice of their appointment, view the fence and the ground upon which the animal was found doing damage, and determine whether or not the fence was a lawful one according to the statutes or by-laws in that behalf at the time of the trespass; and if it was a lawful fence, or if the animal was one not permitted to run at large by the by-laws of the municipality, they shall appraise the damages committed, and, within twenty-four hours after having made the view, shall deliver to the pound-keeper a written statement signed by at least two of them of their appraisement and of their lawful fees and charges.

Proceedings where fence-viewers decide against the sufficiency of a fence.

(3) If in the case of an animal permitted to run at large, the fence-viewers decide that the fence was not a lawful one, they shall certify the same in writing under their hands, together with a statement of their lawful fees to the pound-keeper, who shall, upon payment of all lawful fees and charges, deliver such animal to the owner if claimed before the sale thereof; but if not claimed, or if such fees and charges are not paid, the pound-keeper, after due notice, as required by this Act, shall sell the animal in the manner before mentioned at the time and place appointed in the notices. 2 Geo. V. c. 66, s. 16.

Penalty for pound-keeper refusing to feed animal impounded.

20. If a pound-keeper or person who impounds, or confines, or causes to be impounded, or confined any animal, refuses or neglects to provide and supply the animal with good and sufficient food, water and shelter, he shall, for every day during which he is so in default, incur a penalty of not less than \$1 nor more than \$4. 2 Geo. V. c. 66, s. 17.

Penalty for neglect of duty by fence-viewers.

21. Any fence-viewer neglecting his duty under this Act shall incur a penalty of \$2. 2 Geo. V. c. 66, s. 18.

Statement to be filed with clerk by pound-keeper or distrainer.

22. Every pound-keeper shall and every person who, under the provisions of section 11, distrains any animal shall, on or before the 15th day of January in every year, file with the clerk of the municipality a statement for the year ending on the 31st day of December next preceding showing:—

1. The number of animals impounded or distrained, as the case may be;
2. The number of animals sold and the amounts received;
3. The sum received as poundage fees and cost of keep by the pound-keeper or party distraining;
4. The damages paid by any party;
5. All disbursements and to whom paid;

6. Any other receipts and expenditures in connection therewith. 2 Geo. V. c. 66, s. 19.

23. The statement shall be certified to by the pound-keeper or the person distraining as a true and accurate statement for the year ending on the 31st day of December next preceding. 2 Geo. V. c. 66, s. 20.

Certifying statement.

24. Any pound-keeper or other person required to file such return, neglecting or refusing to file the same on or before the 15th day of January in any year, shall incur a penalty not exceeding \$10. 2 Geo. V. c. 66, s. 21.

Penalty for neglect to comply with Act.

25.—(1) The penalties provided by this Act shall be recoverable under *The Ontario Summary Convictions Act*.

Penalties, how recoverable.

(2) One-half of every penalty recovered under this Act shall be paid to the treasurer of the local municipality in which the offence was committed, and one-half to the private prosecutor; but where the information is laid by an officer of the municipality, the whole of the penalty shall be payable to the treasurer. 2 Geo. V. c. 66, s. 22.

How to be applied.

CHAPTER 248.

An Act respecting the Destruction by Constables and others of Injured Animals.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Injured Animals Act*.
1 Geo. V. c. 75, s. 1.

Duty of
police con-
stable or In-
spector
where horse
is found
severely
injured.

2. Where a police constable, or the inspector of an incorporated humane society or society for the prevention of cruelty to animals, finds any horse so severely injured that it would, in his opinion, be cruel to allow the horse to live, he shall, if the owner refuses to consent to the destruction of the animal, or is absent, at once summon a veterinary surgeon, if any such surgeon resides or can be found within a reasonable distance, or, if no such surgeon can be obtained, then two reputable citizens, and if it appears by the certificate of such surgeon or by a statement signed by such two citizens that the animal is, or appears to be, incapable of being so cured or healed as to live thereafter without suffering, it shall be lawful for such police constable or inspector, without the consent of the owner, to kill or cause to be killed such animal with such instrument or instruments or appliances, and with such precautions and in such a manner as to inflict as little pain and suffering as possible. 1 Geo. V. c. 75, s. 2.

Imp. Acts,
57-58 Vict.,
ch. 72.

Where horse
is abandoned.

3. If any horse is abandoned, or left to die in any street, road, commons or public place, it shall be the duty of any police constable or inspector, as mentioned in section 2, to make a reasonable attempt to ascertain the owner of such animal, and, if such owner cannot be found, or, if found, refuses to give his consent to the killing of such horse, the said constable or inspector shall proceed in the manner set forth in section 2. 1 Geo. V. c. 75, s. 3.

Animals
injured by
railway
trains.

4. Where any large animal, such as a horse, cow, sheep or hog, is severely injured by any railway engine or train, the conductor of the train shall report the occurrence to the nearest station agent of the railway, who shall forthwith notify the owner if possible and the nearest constable, who shall proceed as provided by section 2. 1 Geo. V. c. 75, s. 4.

CHAPTER 249.

An Act respecting the Enrolment and Inspection of Stallions.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Stallion Act*. Short title.
2 Geo. V. c. 67, s. 1.

2. For the purpose of this Act,—

Board of enrolment.

(1) The Lieutenant-Governor in Council upon the recommendation of the Minister of Agriculture shall appoint four persons who, with the Director of the Live Stock Branch of the Department of Agriculture, shall constitute The Stallion Enrolment Board, hereinafter called "The Board." How composed.

(2) The Director of the Live Stock Branch of the Department of Agriculture shall be the Secretary and Executive Officer of the Board. 2 Geo. V. c. 67, s. 2. Director of Live Stock Branch to be Secretary.

3. The Minister of Agriculture may from time to time appoint competent persons to act as inspectors under the direction of the Board and every inspection shall be made by a committee hereinafter called "The Committee," consisting of three such persons. 2 Geo. V. c. 67, s. 3. Inspectors.

4. The appointed members of the Board and the members of the Committees shall receive such per diem remuneration and allowance for necessary travelling expenses as may be fixed by the Lieutenant-Governor in Council out of money voted by the Assembly. 2 Geo. V. c. 67, s. 4. Remuneration of Board and Committees.

5.—(1) No person shall stand, travel or offer for use any stallion unless and until the name, description and pedigree of such stallion has been enrolled and a certificate of such enrolment procured as hereinafter provided. Stallions not to be travelled until enrolled.

(2) For the purposes of enrolment the owner of every stallion shall submit to the Board all evidence of the breeding and ownership of such stallion, and upon receipt of same and payment of the fee, the Board shall issue a certificate accordingly. Evidence for enrolment. Certificate.

(3) All certificates of enrolment shall be renewed annually in accordance with the regulations and upon the payment of the fee hereinafter provided. Renewal of certificates.

Inspection
by desire
of owner.

(4) In addition, if desired by the owner, any stallion may be inspected as herein provided, in which case the report of such inspection shall form a part of the record of enrolment. 2 Geo. V. c. 67, s. 5.

Register of
enrolment.

6.—(1) The Board shall keep a register for the enrolment of stallions, which register shall be kept in such form and shall contain such particulars as may be prescribed by the regulations, and the certificate issued shall be in accordance therewith.

Transfer of
ownership.

(2) Every stallion shall be enrolled in the name of the owner at the time of the enrolment, and in case of a change of ownership the enrolment shall be deemed to be cancelled unless within thirty days thereafter evidence of the change of ownership satisfactory to the Board has been furnished to the Board, in which case a transfer certificate shall be issued by the Board.

Duration of
enrolment
and
certificate.

(3) When a stallion has been enrolled after the first day of August in any year, the enrolment and certificate of enrolment of the stallion shall remain in force until the 31st day of December in the next succeeding year, and when the enrolment has been made before the first day of August in any year the enrolment and certificate thereof shall remain in force until the 31st day of December next following.

Only one
inspection
after stal-
lion is eight
years old.

(4) When a stallion has reached the age of eight years, the first inspection thereafter shall be the final inspection and the enrolment made on the report of such final inspection shall continue to form part of the enrolment and a certificate shall be granted in accordance therewith on each subsequent renewal of such enrolment.

Biennial
inspection
in other
cases.

(5) In the case of any other stallion, the report of the Committee shall form a part of the record of the enrolment for two years only, except as provided in subsection 3, after which the stallion shall be submitted for re-inspection if the owner desires an extension of such certificate. 2 Geo. V. c. 67, s. 6.

Inspection,
notice of.

7. The Board shall fix the times and places at which stallions may be inspected by the Committee, and shall give notice thereof in such manner as may be prescribed by the regulations. 2 Geo. V. c. 67, s. 7.

Proceed-
ings on
inspection.

8. A person desiring to procure the inspection of a stallion shall present the stallion for inspection and examination by the Committee, together with such evidence relating to the breeding and ownership of the stallion as may be required by the regulations. 2 Geo. V. c. 67, s. 8.

Report on
inspection.

9. The Committee shall inspect the stallion and examine the other evidence submitted and report thereon in writing to the Board. 2 Geo. V. c. 67, s. 9.

10.—(1) The report of a majority of the Committee shall be a report of the Committee, but in case the report is not unanimous, and not otherwise, the owner of the stallion may apply to the Board for another inspection and examination, and upon the owner depositing with the Board an amount sufficient in the opinion of the Board to cover the expenses of a further inspection and examination, the Board shall direct another inspection by another Committee, and their decision or the decision of a majority of them shall be final. Right to re-inspection.

(2) In case the appeal is not sustained, the further inspection and examination shall be payable out of the amount of the deposit, and if the appeal is allowed the amount of the deposit shall be returned to the owner. 2 Geo. V. c. 67, s. 10. Costs of re-inspection.

11. The Board upon consideration of the report of the Committee and after the inspection of the papers supplied relating to the breeding and ownership of the stallion, and upon payment of the fee fixed by this Act, shall make such enrolment of the name, description and pedigree of the stallion in the register herein provided for as may be deemed warranted and shall issue a certificate in accordance with such enrolment to the owner of the stallion. 2 Geo. V. c. 67, s. 11. Enrolment, mode of.

12.—(1) The certificate of enrolment of any stallion shall form a prominent part of any newspaper or other printed advertisement issued to advertise such stallion. Certificate, publication of.

(2) Every poster issued shall contain a copy of the certificate of enrolment printed in bold face and conspicuous type and shall not contain any illustrations, pedigree or other matter which is untruthful or misleading. Posters, contents of.

(3) Where no posters are used to advertise a stallion, the owner of the stallion shall exhibit to the owner of each mare at the time of service, if demanded, the original enrolment certificate issued for such stallion. 2 Geo. V. c. 67, s. 12. Owner to exhibit certificate to owner of mare.

13.—(1) The fees to be paid to the Board before the issue of any certificate shall be Fees.

For enrolment	\$2.00
For inspection	5.00
For renewal of enrolment	1.00
For transfer certificate	1.00

(2) The fees received by the Board under this Act shall be paid over the Treasurer of Ontario for the use of the Province. 2 Geo. V. c. 67, s. 13. Application of.

14. The Board, subject to the approval of the Lieutenant-Governor in Council, may make such regulations as may be deemed proper and necessary for the better carrying out of the provisions of this Act. 2 Geo. V. c. 67, s. 14. Regulations.

Penalty.

15. Every person who is guilty of a contravention of any of the provisions of this Act shall incur a penalty of not less than \$25 nor more than \$100, recoverable under *The Ontario Summary Convictions Act*. 2 Geo. V. c. 67, s. 15.

Rev. Stat.
c. 90.Act not to
apply to
districts
or to Hal-
burton.

16. This Act shall not apply to the Provisional Judicial Districts nor to the Provisional County of Haliburton. 2 Geo. V. c. 67, s. 16.

CHAPTER 250.

An Act to prevent the Wasting of Natural Gas and to provide for the Plugging of all Abandoned Wells.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Natural Gas and Oil Wells Act*. Short title.
New.

2. Any person in possession, whether as owner, lessee, agent or manager, of any well in which natural gas has been found shall, unless such gas is utilized within two weeks from the completion of such well, in order to prevent such gas from wasting by escape, confine the same in such well until such time as the gas is utilized; but this section shall not apply to any well while it is being operated as an oil well. Duty to prevent natural gas escaping from unused wells.
7 Edw. VII. c. 47, s. 1.

3. Whenever the owner or any person in possession of or having the control of any well in which gas has been found fails to comply with the provisions of section 2 hereof within the time therein mentioned the inspector appointed, as hereinafter provided, shall notify such person in writing to cause such gas to be so confined; and in case of the failure of such person to comply with such notice within ten days from the receipt thereof the inspector shall enter upon the land upon which such well is situate and, either by himself, his agents or employees, shall cause such gas to be shut in and confined in such well. Powers of inspector.
7 Edw. VII. c. 47, s. 2.

4.—(1) Whenever any well which has been drilled for the purpose of exploring for oil or gas is afterwards abandoned it shall be the duty of the owner or the person in possession or control of such well, and of every person engaged or employed in removing the casing from or in plugging such well, or in any work constituting an abandonment of such well, to plug or plug and cement such well in such manner as to prevent any fresh or salt water or other injurious substances from entering the oil or gas bearing rock either from above or below such rock. Plugging abandoned wells.
7 Edw. VII. c. 47, s. 3.

(2) Subject to section 2, every well which, in the opinion of the inspector appointed under section 9, is not in operation When wells deemed to be abandoned.

shall be deemed to be an abandoned well within the meaning of this Act.

Appeal
from de-
cision of
Inspector.
Rev. Stat.
c. 26.

(3) The owner or person in possession or control of any well may, within ten days after receiving notice from the inspector that in his opinion the well is abandoned, appeal to the mine assessor appointed under *The Mining Tax Act*.

Notice of
appeal.

(4) The owner or other person appealing shall give to the inspector notice in writing of the appeal.

Decision of
Mine
Assessor.

(5) The decision of the mine assessor shall be final and shall not be subject to appeal. 3-4 Geo. V. c. 66, s. 1.

Plug to be
inserted
in well.

5. In every such case of abandonment, in addition to any other work necessary to the proper plugging of such well in compliance with the provisions of the next preceding section or of any regulations made by an inspector in the manner hereinafter provided, there shall be inserted in such well a round and slightly tapering plug of seasoned wood, not less than three feet in length and of such diameter as to enable it to be firmly driven and to fit tightly at the point where the casing used for the purposes of shutting off water from such well was made to rest. 7 Edw. VII. c. 47, s. 4.

Inspector
upon com-
plaint to
examine
abandoned
well and
plug same.

6.—(1) Whenever any person notifies the inspector in writing that any property in which he is interested, situate in the vicinity of any such abandoned well, is injuriously affected by the failure to plug any such well, as in the next preceding section provided, the inspector shall examine such abandoned well and ascertain whether it has been properly plugged according to the provisions of this Act; and in case the inspector determines that such well has not been properly plugged within the meaning of this Act he shall serve a notice on the owner thereof or upon any person having the control thereof, or upon any person who was engaged or employed in the work of removing the casing from or in plugging such well, or in any work which constituted an abandonment of such well, or may serve such notice on all of such persons, which notice shall require such well to be plugged within ten days from the receipt of the notice and shall specify the method and manner to be followed in the plugging thereof; and unless within the ten days such well is plugged according to the directions contained in the notice the inspector either by himself, his agents or employees shall plug or cause such well to be plugged properly according to the provisions of this Act. 7 Edw. VII. c. 47, s. 5.

Stopping
leak in
well.

(2) Where the inspector is of opinion that the casing in any well, whether the well is abandoned or not, is admitting water to such an extent as to injure adjoining property, he may order the owner or person in possession or control to remove the pump or other obstruction therein, if any, so as

to enable him to test the well, and the inspector may order the owner or other person to stop the leak if there be one within the time named by the inspector.

(3) In case of default in compliance with such order within ten days after service of the same the inspector may without further notice proceed to plug the well as provided in subsection 1. Proceeding of Inspector.

(4) The expenses occasioned by or incidental to such examination and plugging may be recovered in the manner provided by section 7. Recovery of expenses.

(5) The owner or person in possession or control of the well may, before the expiry of the time fixed by the inspector, appeal from the order to the mine assessor as provided in subsection 3 of section 4, and the decision of the mine assessor shall be final and shall not be subject to appeal. 3-4 Geo. V. c. 66, s. 2. Appeal from Inspector to Mine Assessor.

7. The expenses incidental to or occasioned by the examination and plugging of any abandoned well, or by the confining or shutting in of the gas from any well by the inspector under the provisions of this Act, shall be paid to the inspector within ten days after notice in writing of the completion of the work and the amount of such expenses has been given to the owner or other person having control of any such well; and upon failure to pay the same within such time the inspector shall give written notice of such failure to pay to the clerk of the municipality in which such well is situate and of the amount payable, and the council of such municipality shall thereupon pay to the inspector such expenses and the same shall be added to the taxes upon any property of the owner of such well, whether such well is situate upon such property or not, unless the mineral rights in the land upon which such well is situate have been severed or reserved from such land, in which case such expenses shall be added to any taxes chargeable against the reserved mineral rights in the land upon which such well is situate or against any other property of the owner of such reserved mineral rights, and such expenses shall be placed upon the collector's roll of the municipality and may be levied and collected in the same manner as other taxes are levied and collected. 7 Edw. VII. c. 47, s. 6. How expenses to be recovered by Inspector.

8. Any person found guilty of a violation of sections 2, 4, 5 or 12 shall incur a penalty of not less than \$10 or more than \$100, in addition to any costs and expenses which he may be liable to pay under the provisions of section 7; but this section shall not affect any right of action for damages for injuries arising out of any matter or thing for which this section provides a penalty. 7 Edw. VII. c. 47, s. 7. Penalty for violation of this Act. Liability not affected.

9.—(1) An inspector or inspectors may be appointed by the Lieutenant-Governor in Council from time to time to enforce the provisions of this Act, and assigned to such district or districts as he may deem proper.

Appointment
of inspectors.

(2) Each inspector shall give such security as the Minister of Lands, Forests and Mines shall require for the performance of his duties and the payment over of all money received by him. 7 Edw. VII. c. 47, s. 8.

Duties of
Inspectors.

10.—(1) It shall be the duty of every such inspector to see that the provisions of this Act are complied with, to keep a record of all work done, notices given, proceedings taken and money received or paid out by him under the provisions of this Act.

Powers.

(2) The inspector shall have authority to engage such agents or employees as he may deem necessary from time to time to carry out the requirements of this Act, and shall also be empowered from time to time and at all times by himself, his servants or employees to enter upon any land or property upon which any wells are being or have been drilled and to make such examinations, inspection and inquiries as may be necessary for carrying into effect the provisions of this Act.

No action
against
inspector.

(3) No action or other proceeding shall lie against any such inspector, his agents or employees for any matter or thing done by him or them under the provisions of this Act. 7 Edw. VII. c. 47, s. 9.

Regulations
with consent
of Minister.

11.—(1) Whenever in the opinion of the inspector the conditions of any locality make it desirable he may, subject to the sanction of the Minister of Lands, Forests and Mines, make special regulations respecting the manner of plugging abandoned wells in such locality in addition to or in substitution for the method directed to be followed in this Act.

Scope of
regulations.

(2) Such regulations may be made to apply to the whole or any portion of the district to which such inspector is assigned, and may be promulgated in such manner as the Minister shall direct, but shall not go into effect until after the lapse of six weeks from the first publication thereof. 7 Edw. VII. c. 47, s. 10.

Declaration
to be made by
certain persons
respecting
such
wells.

12.—(1) The inspector may by notice in writing delivered to any person who had charge or control of the removal of casing or plugging or abandonment of any well, or who was engaged or employed in removing the casing from or in plugging any such well or in any work constituting an abandonment of such well, require such person within ten days from the receipt of such notice to furnish a statutory declaration respecting such abandoned well to the inspector.

Delivery of
declaration.

(2) Such person shall within the ten days furnish such declaration to the inspector either by delivering the same

into his hands or by mailing by registered post to his address; and the declaration shall identify such well and shall set out in detail the precise manner of and the material and tools used in plugging the same.

(3) Any person violating the provisions of this section without sufficient cause or excuse shall incur the penalty provided by section 8. ^{Penalty for default.} 7 Edw. VII. c. 47, s. 11.

13. The penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*. ^{Recovery of penalties. Rev. Stat. c. 90.}

CHAPTER 251.

An Act respecting Steam Threshing Engines.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Steam Threshing Engines Act*.

Engines to be furnished with spark arresters.

2. Every manufacturer of steam threshing engines shall provide each engine with an efficient spark arrester before selling or disposing of the same; and no person shall use or run any steam threshing engine unless it is provided with such spark arrester, and every owner or other person using or running the engine, shall keep the spark arrester at all times when the engine is in use in proper working order. R.S.O. 1897, c. 278, s. 1.

Penalty.

3.—(1) Every manufacturer who sells or disposes of a steam threshing engine without an efficient spark arrester shall incur a penalty of not more than \$20 or less than \$5.

(2) Every person using or running a steam threshing engine not provided with such spark arrester, or wilfully using or running a steam threshing engine not having the spark arrester in proper working order, shall incur a penalty of not more than \$20 or less than \$5, for every day he so uses such steam threshing engine. R.S.O. 1897, c. 278, s. 2. *Amended*.

Rev. Stat. c. 90.

4 All penalties imposed by this Act shall be recoverable under the provisions of *The Ontario Summary Convictions Act*.

Application of penalty.

5. One-half the fine when recovered shall belong to the informer and the other half to the treasurer of the municipality where the offence is tried. R.S.O. 1897, c. 278, s. 3.

CHAPTER 252.

An Act respecting Steam Boilers.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Steam Boiler Act*. Short title.
3-4 Geo. V. c. 61, s. 1.

2. In this Act and in the Regulations

Interpre-
tation.

(a) "Inspector" shall mean an Inspector appointed by the Lieutenant-Governor in Council under and for the purposes mentioned in this Act; "Inspector."

(b) "Minister" shall mean the Minister of Public Works; "Minister."

(c) "Regulations" shall mean regulations made under the authority of this Act by the Lieutenant-Governor in Council; "Regulations."

(d) "Steam Boiler" shall mean and include a boiler used for generating steam for heating or power purposes, and every part thereof or thing connected therewith, and apparatus and things attached to or used in connection with any such boiler, but not "Steam boiler."

i. a boiler in a private residence, apartment house, office building, church, hotel, or public building used exclusively for heating purposes, and provided with a device approved by the Minister, limiting the pressure carried to fifteen pounds to the square inch, nor

ii. a portable boiler, rated at 25 horse-power or under, or a boiler used exclusively for horticultural or agricultural purposes. 3-4 Geo. V. c. 61, s. 2.

3. Upon the recommendation of the Minister of Public Works the Lieutenant-Governor in Council may make Regulations Power to "make regulations as to construction, etc., of steam boilers."

(a) respecting the construction of steam boilers;

(b) prescribing specifications for the construction of steam boilers, including the material to be used,

the method and order of construction, the tests to be applied during and after construction;

(c) for the inspection of every steam boiler during its construction and before it is removed from the place of construction; and

(d) generally respecting such other matter as may be deemed proper to secure a uniform standard of strength, safety and efficiency in the construction of steam boilers. 3-4 Geo. V. c. 61, s. 3.

When to
come into
effect.

4. The Regulations shall be published in the *Ontario Gazette* and shall come into force and take effect at a date to be named by Proclamation. 3-4 Geo. V. c. 61, s. 4.

Note Regulations in pursuance of the Act, 10 Edw. VII. c. 98, s. 4, were proclaimed on 29th January, 1913, to come into force on 1st July, 1913.

Appoint-
ment of In-
spectors.

5.—(1) The Lieutenant-Governor in Council may appoint Inspectors of steam boilers for the purposes of this Act and for the enforcement of the Regulations, and may designate one of them to be Chief Boiler Inspector.

Employment
of boiler
inspection
company.

(2) The Minister may employ any boiler insurance company registered in the Department of Insurance, or any Inspection Company engaged in the inspection of steam boilers, to make any inspection of steam boilers during their construction, required by the Regulations, and the company making such inspection shall report upon the same within fourteen days thereafter to the Chief Boiler Inspector. 3-4 Geo. V. c. 61, s. 5.

Inspectors
not to be
agents for
boilers or
machinery,

6. No person shall be appointed or shall hold office as Inspector who is directly or indirectly interested in the manufacture or sale of steam boilers or steam machinery. 3-4 Geo. V. c. 61, s. 6.

Oath of
office to be
taken.

7. Every Inspector appointed under the provisions of this Act shall, before entering upon the performance of his duties, take and subscribe an oath that he will faithfully and impartially perform the duties of his office. 3-4 Geo. V. c. 61, s. 7.

Power to
enter
premises.

8. For the purpose of seeing that the provisions of this Act, and of the Regulations are complied with, an Inspector may at any reasonable hour enter upon any land or into any building where any steam boiler is under construction, alteration or repair. 3-4 Geo. V. c. 61, s. 8.

Obstructing
inspectors.

9. Any person interfering with or obstructing any Inspector in the performance of his duties under this Act shall incur a penalty not exceeding \$50. 3-4 Geo. V. c. 61, s. 9.

10.—(1) An Inspector may by notice in writing require the attendance before him, at a time and place named in the notice, of any person, and may examine such person either alone or in the presence of any other persons as he may think fit as to any matter connected with the construction, alteration or repair of a steam boiler or its removal from any place in which it has been constructed, altered or repaired.

Power for
Inspector
to summon
witnesses.

(2) For the purposes of subsection 1 the Inspector may administer an oath to any person to be examined by him.

To adminis-
ter oath.

(3) Every person who wilfully neglects or refuses to attend before the Inspector after receiving notice so to do, or refuses to be sworn or to give evidence before the Inspector, or to answer any question put to him by the Inspector touching the matters mentioned in subsection 1, shall incur a penalty of \$25. 3-4 Geo. V. c. 61, s. 10.

Penalty for
neglect to
attend.

11.—(1) Upon completion of his inspection the Inspector shall issue to the owner or manufacturer of the boiler an inspection certificate; and the owner or manufacturer shall pay the Inspector a fee of \$5 for such inspection and the issue of such certificate.

Inspection
certificate.

Fee.

(2) Any owner or manufacturer neglecting or refusing to pay the Inspector such fee shall incur a penalty not exceeding \$20. 3-4 Geo. V. c. 61, s. 11.

Penalty for
refusal to
pay fee.

12.—(1) Any person who is dissatisfied with the action of an Inspector or with a certificate of inspection issued by him may within one week after the inspection appeal to the Minister, who may thereupon cause another inspection to be made by one or more competent inspectors, who shall report to him, and the decision of the Minister shall be final.

Appeal to
the Minister.

(2) Any expenses occasioned by the appeal and second inspection shall be paid as determined by the Minister. 3-4 Geo. V. c. 61, s. 12.

Expenses,
how paid.

13. All fees paid and all penalties recovered under this Act or the Regulations shall be paid to the Treasurer of Ontario. 3-4 Geo. V. c. 61, s. 13.

Application
of fees and
penalties.

14. The penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 61, s. 14.

Recovery of
penalties.
Rev. Stat. c. 90.

15. This Act shall not apply to

Exceptions
to Act.

(a) a new boiler in the possession of the manufacturer or of a dealer in steam boilers on the 1st day of July, 1913, or to a boiler under construction on that date; or to

- (b) a second hand boiler in the possession of the manufacturer or of a dealer in steam boilers on that date, unless the same is re-built or extensively altered after that date. 3-4 Geo. V. c. 61, s. 15.

CHAPTER 253.

An Act to prevent the Spread of Noxious Weeds.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Noxious Weeds Act*. Short title.
2 Geo. V. c. 68, s. 1.

2. In this Act, Interpretation.

(a) "Non-resident land" shall mean land which is unoccupied and the owner of which is not resident within the municipality. "Non-resident land."

(b) "Resident land" shall mean land which is occupied or which is owned by a person resident within the municipality. "Resident land."
2 Geo. V. c. 68, s. 2.

3. Every occupant of land or, if the land is unoccupied, the owner shall cut down or destroy all the Canada thistles, ox-eye daisy, wild oats, rag-weed and burdock growing thereon, and all other noxious weeds growing thereon to which this Act may be extended by by-law as hereinafter provided, so often in every year as is sufficient to prevent the ripening of their seed, if such cutting or destruction does not involve the destruction of the growing grain. Duty of owners and occupants as to destruction of weeds, etc.
2 Geo. V. c. 68, s. 3.

4.—(1) The council of any township in which there are any large tracts or blocks of waste or unoccupied land may upon the petition of not less than thirty ratepayers, by by-law, suspend the operation of this Act in respect of such waste or unoccupied lands. Exemption of waste or unoccupied lands

(2) The by-law shall define the tracts or blocks of land so exempted and shall remain in force until repealed; and while it remains in force the land therein described shall be exempt from the operation of this Act. 2 Geo. V. c. 68, s. 4.

5. The council of any local municipality may by by-law extend the operation of this Act to any other description of weed, or to any diseased growing crops, which are by the by-law declared to be noxious to husbandry or gardening, and in that case the provisions of this Act shall apply to such noxious weeds and diseased growing crops as if the same were enumerated in section 3. Operation of Act may be extended.
2 Geo. V. c. 68, s. 5.

Appointment
of Inspector.

6.—(1) The council of any local municipality may, and upon a petition of fifty or more ratepayers shall, appoint at least one inspector to enforce the provisions of this Act in the municipality, and fix the amount of remuneration, fees or charges he is to receive for the performance of his duties; and if a vacancy occurs in the office, the council shall fill the same forthwith.

Division of
municipalities
into sections
and appoint-
ment of
inspectors.

(2) The council may by a by-law divide the municipality into sections or divisions for the carrying out of this Act, and may appoint inspectors for such divisions whose duties and powers shall in all respects be the same as those of the township inspector. R.S.O. 1897, c. 278, s. 3.

Duty of
Inspector.

7.—(1) The inspector shall give notice in writing to the owner or occupant of any land within the municipality whereon any of such noxious weeds or diseased crops are growing requiring him to cause them to be cut down or destroyed within ten days from the service of the notice; and it shall be the duty of the inspector to give such notice for the first time not later than such dates in each year as may be fixed by by-law of the municipality.

Lands of rail-
way company.

(2) In the case of the lands of a railway company the notice shall be given to a station master of the company resident in the municipality, or if there is none resident in it, to a station master resident in an adjoining or neighbouring local municipality.

Inspector's
powers on
default by
owner or
occupant.

(3) If such owner or occupant of land refuses or neglects to cut down or destroy all or any of such noxious weeds or diseased growing crops within the period mentioned in the notice the inspector may enter upon the land and cause them to be cut down or destroyed, doing no unnecessary damage to other growing crops, or he may lay information before any justice of the peace complaining of such refusal or neglect, and such owner or occupant shall incur the penalties provided by section 10; but no inspector shall have power to cut down or destroy or to require the owner or occupant to cut down or destroy such noxious weeds or diseased growing crops on any land sown with grain not so diseased.

Non-resident
land, notice
not required.

(4) Where such noxious weeds are growing upon non-resident land it shall not be necessary to give any notice before proceeding to cut down or destroy them. 2 Geo. V. c. 68, s. 7.

Account of
inspector's
expenses and
payment
thereof.

8.—(1) The inspector shall keep an account of the expenses incurred by him in carrying out the provisions of this Act with respect to each parcel of land entered upon, and shall deliver a statement of such expenses describing the land entered upon, and verified by oath, to the owner or occupant of resident land with a notice requiring him to pay the amount.

(a) In the case of a railway company the statement and notice may be served in the manner provided by subsection 2 of section 7.

(2) If the owner or occupant deems such expenses excessive he may appeal to the council within thirty days after the delivery of such statement, and the council shall determine the matter in dispute. Appeal to council against excessive charge.

(3) If the owner or occupant refuses or neglects to pay the same within thirty days after such request for payment the claim shall be presented to the council and the council shall audit it and allow it or so much of it as it may deem just, and order the same to be paid from the general funds of the corporation. Proceedings in case of default in payment.

(4) The inspector shall also present to the council a similar statement, verified by oath, of the expenses incurred by him in carrying out the provisions of this Act upon any non-resident land; and the council shall audit and allow the same, or so much of it as may be deemed just, and shall pay so much of it as has been so allowed. Provisions as to expenses in case of non-resident land.

(5) The council shall cause all such sums as have been so allowed and paid to be placed upon the collector's roll of the municipality against the land described in the statement of the inspector to be collected in the same manner as other taxes. 2 Geo. V. c. 68, s. 8. Collection of sums paid for expenses by municipality.

9.—(1) Overseers of highways, or other municipal officers charged with the care of highways shall see that all noxious weeds growing upon the highways in their respective divisions are cut down or destroyed at the proper times to prevent the ripening of their seed, and the work shall be performed as part of the ordinary statute labour or be paid for at a reasonable rate by the treasurer of the municipality as the council of the municipality may direct. Duties of overseers of highways as to noxious weeds.

(2) In unorganized townships where road commissioners have been appointed every owner or occupant shall cut down and destroy, at the proper time to prevent the ripening of their seed, all such noxious weeds growing on any highway adjoining such land from the boundary of such land to the centre line of the highway, and in case of default after notice from the road commissioners requiring such work to be done on or before a day named in the notice such owner or occupant shall incur a penalty of \$5 for each lot or parcel in respect of which default is made, and the penalty when recovered shall be paid to the road commissioners and be expended in improving the roads in such township. In unorganized townships. Penalty.

(3) Where such default occurs the road commissioners may perform the work in place of such owner or occupant, and the cost thereof at the rate of \$2 for each day's labour involved shall be recoverable as a debt due by such owner or occupant. Road commissioners may do the work and recover expenses.

to the road commissioners in any court of competent jurisdiction. 2 Geo. V. c. 68, s. 9.

Penalty for neglect to obey inspector's orders.

10. Any owner or occupant of land who contravenes any of the provisions of this Act or who refuses or neglects to obey any lawful order of the inspector given under this Act shall incur a penalty of not less than \$5 nor more than \$20 for every such offence. 2 Geo. V. c. 68, s. 10.

Penalty for selling seed mixed with seeds of weeds.

11. Any person who knowingly sells or offers to sell any grass, clover or other seed, or any seed grain among which there is seed of Canada thistles, ox-eye daisy, wild oats, rag-weed, burdock or wild mustard shall for every such offence incur a penalty of not less than \$5 nor more than \$20. 2 Geo. V. c. 68, s. 11.

Penalty for sowing grain infected by smut.

12. Any person who sows any wheat or other grain knowing it to be infected by the disease known as smut without first using some proper and available remedy to destroy the germs of such disease shall incur a penalty of not less than \$5 nor more than \$20. 2 Geo. V. c. 68, s. 12.

Penalty for neglect of duties by inspector, etc.

13. Every inspector, overseer of highways or other officer who refuses or neglects to discharge the duties imposed on him by this Act shall incur a penalty of not less than \$10 nor more than \$20. 2 Geo. V. c. 68, s. 13.

Recovery and application of penalties.

Rev. Stat. c. 90.

14. The penalties provided by this Act shall be recoverable under *The Ontario Summary Convictions Act* and, except as provided by subsection 2 of section 9, shall when recovered be paid over to the treasurer of the municipality in which the offence is committed. 2 Geo. V. c. 68, s. 14.

CHAPTER 254.

An Act to Prevent the Spread of Insect and Fungus Diseases Injurious to Vegetation.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Fruit Pest Act*. 2 Geo. V. Short title. c. 69, s. 1.

2. In this Act, *Interpretation.*

(a) "Disease" shall mean the following insects and diseases in any stage of development: Codling Moth, San Jose Scale, Yellow's, Little Peach, Black Knot, Pear Psylla, and Pear Blight, and any other insects and disease to which the provisions of this Act may be extended under section 19. "Disease."

(b) "Minister" shall mean the Minister of Agriculture for the Province of Ontario. "Minister."

(c) "Plant" shall mean any tree, vine, shrub or plant. "Plant." 2 Geo. V. c. 69, s. 2.

3. On the recommendation of the Minister, the Lieutenant-Governor in Council may appoint a Provincial Entomologist and one or more competent persons to act as inspectors, whose duties shall be to enforce the provisions of this Act. 2 Geo. V. c. 69, s. 3; 3-4 Geo. V. c. 18, s. 42 (1). Provincial Entomologist, Inspectors.

4.—(1) No person shall import or bring, or cause to be imported or brought into Ontario, for any purpose whatsoever, any diseased plant or fruit, or sell or dispose of, or offer for sale any fruit infested with San Jose Scale, Yellow's or Little Peach. Importing diseased plants prohibited.

(2) Wherever such diseased fruit exists or is believed by the Provincial Entomologist to exist, he may make an examination and inspection and may order any fruit so infested, or such part as he may deem advisable, to be destroyed. Examination of suspected fruit. 2 Geo. V. c. 69, s. 4; 3-4 Geo. V. c. 18, s. 42 (2).

5. No person shall keep or have, or offer for exchange or sale any diseased plant. 2 Geo. V. c. 69, s. 5. Keeping forbidden.

6. Every person owning, leasing or managing any orchard or collection of plants, other than a nursery, shall, when any Destruction of diseased plants.

plant therein becomes diseased and forthwith on becoming aware of such disease, destroy such plant by fire or effectually treat the disease by fumigation or spraying with such material as may be prescribed by the Minister. 2 Geo. V. c. 69, s. 6.

Appoint-
ment of
inspectors
by municip-
ality.

7.—(1) The council of any local municipality may, and upon the petition of twenty-five or more fruit growers who are ratepayers, shall, by by-law, appoint at least one inspector to enforce the provisions of this Act in the municipality and fix the amount of remuneration, fees or charges he shall receive for the performance of his duties.

Approval of
Minister.

(2) All such appointments, remuneration, fees or charges shall be subject to, and be only operative on the written approval of the Minister, communicated by him to the clerk of the municipality.

Duration
of by-law.

(3) The by-law shall not take effect unless and until approved by the Minister and shall remain in force only for the calendar year in which it is passed.

Transmit-
ting copy to
Minister.

(4) The clerk of the municipality shall transmit a certified copy of every such by-law to the Minister of Agriculture before the first day of March after the passing thereof. 2 Geo. V. c. 69, s. 7.

Notice to
owner or
occupant.

8. Upon the report of the municipal inspector to the Provincial Entomologist that there is disease upon the plants on any lot within the municipality, the Provincial Entomologist shall direct the municipal inspector to give notice personally by the inspector or by registered letter to the owner or occupant of the lot to have the plants forthwith sprayed, or to have them destroyed by burning as may be determined by the provincial inspector, and if this is not done within ten days after the notice has been given, the inspector may cause such spraying or destruction by burning to be done, and he shall report to the clerk what has been done, and the cost of the work, and such cost shall be charged on the lot and be collected as a special tax in addition to the other taxes imposed by the municipal council on the lot. 2 Geo. V. c. 69, s. 8; 3-4 Geo. V. c. 18, s. 42 (3).

Municipal
inspectors
to obey
regulations.

9. Every inspector appointed by a municipal council shall be subject to and observe the regulations and directions of the Minister, and shall be subject and subordinate to the Provincial Entomologist appointed by the Minister; and in case of any neglect of duty the Minister may withhold from the township all or any part of the amount due to it for services. 2 Geo. V. c. 69, s. 9; 3-4 Geo. V. c. 18, s. 42 (4).

Remunera-
tion of
municipal
inspectors.

10. The council shall pay the remuneration, fees or charges of the municipal inspector and shall be entitled to receive from the Department of Agriculture one-half of the amount so paid upon furnishing the Department with a statement of the sums so paid, certified to by the Provincial

Entomologist, provided that such statement is submitted to the Minister on or before the fifteenth day of December of the year to which it applies. 2 Geo. V. c. 69, s. 10.

11.—(1) The proprietor or manager of any nursery shall not send out or permit any plant to be removed from his nursery until he has received a certificate from the Provincial Entomologist that his nursery has been examined and found to be apparently free from disease. Certificate before removal of plant from nursery.

(2) Such certificate shall be good for one year from the date of issue, but may be renewed from year to year. Donation. 2 Geo. V. c. 69, s. 11; 3-4 Geo. V. c. 18, s. 42 (5).

12. No person shall sell or dispose of or offer for sale any plant obtained, taken or sent out from a nursery unless the same has been previously fumigated by hydrocyanic acid gas in accordance with the regulations. 2 Geo. V. c. 69, s. 12; 3-4 Geo. V. c. 18, s. 42 (6). No sale before fumigation.

13. If an inspector finds disease in any nursery and so reports to the Minister, the Minister may thereupon inform in writing the proprietor or manager of the nursery in writing of the existence of the disease; and the proprietor or manager shall not thereafter permit any plant to be removed until he is notified in writing by the Minister that the inspector has reported to the Minister that it is safe in the public interest to permit such removal after fumigation. Removal forbidden where disease exists. 2 Geo. V. c. 69, s. 13.

14. For the purpose of scientific investigation the Minister may, from time to time, by writing given under his hand, except such persons as he may deem proper from the operation of sections 11 and 13, and while acting under such permission such persons shall not be subject to the penalties imposed by this Act. 2 Geo. V. c. 69, s. 14. Exception for scientific purposes.

15. Any person having reason to suspect that any plant in his possession or in his charge or keeping is diseased shall forthwith communicate with the Minister in regard to the same, and shall furnish the Minister with all such information in regard to the source or origin of such infestation and the nature of the same as he may be able to give. Duty of owner of diseased plant. 2 Geo. V. c. 69, s. 15.

16.—(1) When disease exists or is supposed to exist on any plant, the Minister may direct a competent person to make an examination and inspection, and may order that any plant so infested, or any such part as he may deem advisable, shall be immediately destroyed by burning, either by the person appointed to make the inspection or by the person owning or having possession of the plant, or some other person so directed in writing, and the person so directed shall report to the Minister in writing the nature and extent of the work so performed, together with a fair estimate of the value of the plants destroyed. Examination of diseased plants and destruction by burning.

Where disease found in several parts of orchard or collection.

(2) If, in a nursery, orchard or collection of plants, the inspector finds disease on plants located in several different parts of the nursery, orchard or collection, and decides that it is advisable in the public interest to destroy all the plants in such nursery, orchard or collection, or in any part thereof, and so reports to the Minister, the Minister may direct that an examination or inspection shall be made by an additional inspector, and upon the advice in writing of both inspectors he may direct that all the plants in such nursery, orchard or collection, or in such part or parts thereof shall be destroyed without requiring that every plant therein shall be first examined. 2 Geo. V. c. 69, s. 16.

Free access for inspectors, etc.

17. Any inspector or other person acting under the authority of this Act shall, upon producing his authority in writing, have free access to any nursery, orchard, storeroom, or other place where it is known or suspected that any plant is kept. 2 Geo. V. c. 69, s. 17.

Penalty.

18. Any person neglecting to carry out the provisions of this Act, or any person offering any hindrance to the carrying out of this Act shall incur a penalty of not less than \$10 or more than \$100, recoverable under *The Ontario Summary Convictions Act*. 2 Geo. V. c. 69, s. 18.

Extension of Act to other diseases.

19.—(1) The Lieutenant-Governor in Council may, by Order, direct that other insects and diseases than those mentioned may be included in the provisions of this Act, and thereafter during the continuance of such Order-in-Council, the word "Disease" in this Act shall include all such other insects and diseases.

(2) Public notice of such Order-in-Council shall be given by publication in two successive issues of the *Ontario Gazette*. 2 Geo. V. c. 69, s. 19.

Regulations.

20. The Lieutenant-Governor in Council may make such regulations as may be deemed expedient for the better carrying out the provisions of this Act. 2 Geo. V. c. 69, s. 20.

CHAPTER 255.

An Act respecting the Barberry Shrub.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Barberry Shrub Act*. Short title.
2 Geo. V. c. 70, s. 1.

2. In this Act "Barberry" shall mean the species *Berberis* "Barberry,"
Vulgaris L. 2 Geo. V. c. 70, s. 2. meaning of.

3. Every person who plants, cultivates or sells the shrub Penalty for
known as the barberry shrub shall incur a penalty not exceed- planting shrub.
ing \$10, to be recoverable under *The Ontario Summary Con-* Rev. Stat. c. 90.
victions Act. 2 Geo. V. c. 70, s. 3.

4. The council of any municipality may order the owner or Shrub where
occupant of any land on which any hedge or fence formed by already plant-
such shrub or any plant of such shrub is growing to remove ed on farm
and destroy the same, and upon his neglect or refusal so to lands to be
do within one month after the service of notice in writing pulled up.
requiring such removal and destruction the council may
cause the same to be removed and destroyed, and in such case
he shall not be entitled to compensation for such removal and
destruction. 2 Geo. V. c. 70, s. 4.

5.—(1) If within thirty days after receiving the notice the Compensation
owner or occupant removes and destroys such shrub he shall for destruction.
be entitled to compensation for the value of the plant and the
cost of removal.

(2) In default of agreement the amount of such compensa- Fixing
tion shall be determined in writing by the fence viewers of amount.
the municipality, and the amount agreed upon or awarded
shall be paid to the owner or occupant by the treasurer of
the municipality. 2 Geo. V. c. 70, s. 5.

6.—(1) Where any person has planted or has growing upon Shrub already
land owned or occupied by him and situate within any city, planted in
town or village any hedge or fence formed by such shrub or cities, etc., to
any plants of such shrub the Minister of Agriculture may, up- be destroyed.
on petition signed by at least three owners or occupants of
land in an adjoining township, and after the report of one or
more qualified persons appointed by the Minister for such pur-
pose, require the owner or occupant to remove and destroy

such hedges, fences or plant, and upon his neglect or refusal to do so within one month after the service of notice in writing requiring such removal and destruction the Minister may cause the same to be removed and destroyed.

Compensation.

(2) Where such owner or occupant removes and destroys such hedge, fence or plant as required by the Minister, and such hedge, fence or plant was planted before the 30th day of April, 1900, he shall be entitled to such compensation as the Minister sees fit to allow to be paid out of the Consolidated Revenue Fund. 2 Geo. V. c. 70, s. 6.

CHAPTER 256.

An Act to prevent the Extermination of the Plant called Ginseng.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ginseng Act*. 2 Geo. V. Short title.
c. 71, s. 1.

2. Except for the purpose of clearing or bringing land into cultivation no person shall, between the first day of January and the first day of September in any year, cut, root up, gather or destroy the plant known by the name of ginseng growing in a wild or uncultivated state. 2 Geo. V. c. 71, s. 2. Destruction of ginseng prohibited.

3. No person shall purchase ginseng knowing the same to have been cut, rooted up, or gathered between the first day of January and the first day of September. 2 Geo. V. c. 71, s. 3. Purchasing with knowledge of illegal gathering.

4.—(1) Any person who contravenes the provisions of this Act shall incur a penalty of not less than \$5 and not more than \$20 to be recovered under *The Ontario Summary Convictions Act*. Penalty and recovery. Rev. Stat. c. 90.

(2) One-half of such penalty shall be paid to the prosecutor unless otherwise ordered by the convicting Justice. 2 Geo. V. c. 71, s. 4. Application of penalty.

5. Evidence of the purchase or sale of ginseng between the first day of January and the first day of September shall be *prima facie* proof of a contravention of this Act. 2 Geo. V. c. 71, s. 5. Proof of purchase or sale to be prima facie evidence.

6. In any prosecution for a contravention of section 3 evidence that the ginseng purchased has been illegally obtained by the vendor shall be *prima facie* proof of a contravention of this Act by the purchaser. 2 Geo. V. c. 71, s. 6. Proof of illegal gathering to be prima facie evidence against purchaser.

CHAPTER 257.

An Act for the Protection of Bees.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Bee Protection Act*.
2 Geo. V. c. 72, s. 1.

Use of poison
in spraying
fruit trees in
bloom pro-
hibited.

2. No person in spraying or sprinkling fruit trees during the period within which such trees are in full bloom shall use any mixture containing Paris green or any other poisonous substance injurious to bees. 2 Geo. V. c. 72, s. 2.

Penalties.

Rev. Stat. c. 90.

3. Any person contravening the provisions of this Act shall incur a penalty of not less than \$1 and not more than \$5 recoverable under *The Ontario Summary Convictions Act*.
2 Geo. V. c. 72, s. 3.

CHAPTER 258.

An Act for the Suppression of Foul Brood among Bees.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows—

1. This Act may be known as *The Foul Brood Act*. 2 Geo. V. c. 73, s. 1. Short title.

2.—(1) The Lieutenant-Governor in Council upon the recommendation of the Minister of Agriculture may from time to time appoint one or more Inspectors of Apiaries to enforce this Act. Appointment of inspector of apiaries.

(2) The Inspector shall, if so required, produce the certificate of his appointment on entering upon any premises in the discharge of his duties. Producing certificate.

(3) The remuneration to be paid to an Inspector under this Act shall be determined by order of the Lieutenant-Governor in Council, and shall be payable out of any sum appropriated by this Legislature for the enforcement of this Act. 2 Geo. V. c. 73, s. 2. Remuneration.

3.—(1) The Inspector shall, whenever so directed by the Minister, visit any locality in Ontario and examine any apiary to which the Minister directs him, for the purpose of ascertaining if the disease known as "Foul brood" exists in such apiary. Duties of inspectors.

(2) If the Inspector finds that foul brood exists in a virulent or malignant type, he shall order all colonies of bees so affected, together with the hives occupied by them, and the contents of such hives and all tainted appurtenances that cannot be disinfected to be immediately destroyed by fire under his personal direction and superintendence. Destruction where disease malignant.

(3) Where the Inspector, who shall be the sole judge thereof, finds that the disease exists but only in a milder type and in its incipient stage, and is being or may be treated successfully, and the Inspector has reason to believe that it may be entirely cured, then he may omit to destroy or order the destruction of such colonies and hives. 2 Geo. V. c. 73, s. 3. Treatment, where disease mild.

4. The Inspector may order the owner or possessor of any bees dwelling in box or immovable frame hives to transfer them to movable frame hives within a specified time, and in Transfer to movable hives.

default the Inspector may destroy or order the destruction of such hives and the bees dwelling therein. 2 Geo. V. c. 73, s. 4.

Penalty for disposing of infected bees or appliances.

5. Any owner or possessor of diseased colonies of bees, or of any infected appliances for bee-keeping, who knowingly sells or barter or gives away or removes from the premises such diseased colonies or infected appliances shall incur a penalty of not less than \$50 or more than \$100. or he may be imprisoned for any term not exceeding two months. 2 Geo. V. c. 73, s. 5; 3-4 Geo. V. c. 18, s. 43.

Selling infected bees after treatment or exposing appliances.

6. Any person whose bees have been destroyed or treated for foul brood who sells or offers for sale any bees, hives or appurtenances of any kind after such destruction or treatment and before being authorized by the Inspector so to do or who exposes in his bee-yard, or elsewhere any infected comb honey or other infected thing, or conceals the fact that such disease exists among his bees shall incur a penalty of not less than \$20 or more than \$50, or he may be imprisoned for a term not exceeding two months. 2 Geo. V. c. 73, s. 6.

Penalty for obstructing inspector.

7. Any owner or possessor of bees who refuses to allow the Inspector to freely examine bees or the premises in which they are kept, or who refuses to destroy the infected bees and appurtenances or to permit them to be destroyed when so directed by the Inspector, shall, on the complaint of the Inspector, incur a penalty of not less than \$25 or more than \$50 for the first offence, and not less than \$50 or more than \$100 for the second and any subsequent offence, and the convicting Justice shall by the conviction order such owner or possessor forthwith to carry out the directions of the Inspector. 2 Geo. V. c. 73, s. 7.

Employment of special constables.

8. Where such owner or possessor of bees disobeys the directions of the said Inspector, or offers resistance to or obstructs him, a Justice of the Peace may upon the complaint of the Inspector cause a sufficient number of special constables to be sworn in who shall, under the directions of the Inspector, proceed to the premises of such owner or possessor and assist the Inspector to seize all the diseased colonies and infected appurtenances and burn them forthwith, and if necessary the Inspector or constables may arrest the owner or possessor and bring him before a Justice of the Peace to be dealt with according to the provisions of the next preceding section. 2 Geo. V. c. 73, s. 8.

Informing offender of provisions of Act.

9. Before proceeding against any person before a Justice of the Peace the Inspector shall read over to such person the provisions of this Act or shall cause a copy thereof to be delivered to him. 2 Geo. V. c. 73, s. 9.

10. Every owner or possessor of bees and any other person who is aware of the existence of foul brood either in his own apiary or elsewhere shall immediately notify the Minister of the existence of such disease and in default of so doing shall incur a penalty of \$5. 2 Geo. V. c. 73, s. 10.

Duty to
notify
Minister.

11. Each Inspector shall report to the Minister as to the inspection of any apiary in such form and manner as the Minister may direct, and all reports shall be filed in the Department of Agriculture and shall be made public as the Minister may direct or upon order of the Assembly. 2 Geo. V. c. 73, s. 11.

Inspectors
to report to
Minister.

12. *The Ontario Summary Convictions Act* shall apply to all prosecutions for offences against this Act. 2 Geo. V. c. 73, s. 12.

Prosecutions.
Rev. Stat. c. 90.

CHAPTER 259.

An Act respecting Line Fences.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. **1.** This Act may be cited as *The Line Fences Act*. 3-4 Geo. V. c. 67, s. 1.

Interpretation. **2.—(1)** In this Act,

"Judge." (a) "Judge" shall mean judge of the county or district court;

"Occupied lands." (b) "Occupied lands" shall not include so much of a lot as is unenclosed, although a part of it is enclosed and in actual use and occupation.

(2) Where, within the meaning of section 4, there is a dispute between owners or occupants of lands situate in different local municipalities,

"Fence-viewers." (a) "Fence-viewers" shall mean two fence-viewers of the municipality in which is situate the land of the owner or occupant notified under clause (a) of section 4, and one fence-viewer of the municipality in which is situate the land of the person giving the notice; except that in case of a disagreement within the meaning of clause (d) of that section "Fence-viewers" shall mean fence-viewers from either or both municipalities;

"In which the land is situate;" "In which the land lies." (b) "In which the land is situate" and "in which the land lies" shall mean in which is situate the land of the owner or occupant so notified under clause (a) of section 4. 3-4 Geo. V. c. 67, s. 2.

Duties of owners of adjoining lands as to fences; Occupied lands. **3.—(1)** Owners of adjoining occupied lands shall make, keep up and repair a just proportion of the fence which marks the boundary between them, or if there is no fence they shall make and keep up and repair the same proportion of a fence to mark such boundary.

Unoccupied land. (2) Owners of unoccupied land which adjoins occupied land, upon such unoccupied land becoming occupied, shall be liable to keep up and repair such proportion, and in that respect shall be in the same position as if their land had been occupied at the time of the original fencing, and shall be

liable to the compulsory proceedings hereinafter mentioned.
3-4 Geo. V. c. 67, s. 3.

4. Where an owner of land desires fence-viewers to view and arbitrate as to what portion of such fence each owner shall make, keep up and repair or as to the condition of an existing line fence and as to repairs being done to the same:

Disputes between owners, how to be settled.

(a) Either owner may notify, Form 1, the other owner or the occupant of the land of such other owner that he will, on a day named, not less than one week from the service of such notice, cause three fence-viewers of the locality to arbitrate in the premises;

Notice to owner or occupant of adjoining land.

(b) The owner so notifying shall also notify, Form 2, the fence-viewers not less than one week before their services are required;

And to fence-viewers.

(c) The notices in both cases shall be in writing signed by the person notifying, and shall specify the time and place of meeting for the arbitration, and the notice to an owner may be served by leaving the same at the place of abode of such owner or occupant with some grown-up person residing thereat; or, in case of the land being untenanted, by leaving the notice with any agent of such owner;

What to contain.

(d) An owner notified may, within the week, object to any or all the fence-viewers notified, and in case of disagreement a judge shall name the fence-viewers who are to arbitrate. 3-4 Geo. V. c. 67, s. 4.

When Judge to appoint fence-viewers.

5. An occupant who is not the owner so notified shall immediately notify the owner, and if he neglects so to do shall be liable for all damage caused to the owner by such neglect. 3-4 Geo. V. c. 67, s. 5.

Duty and liability of occupants as to notifying owners.

6. The fence-viewers shall examine the premises, and if required by either party shall hear evidence, and may examine the parties and their witnesses on oath. 3-4 Geo. V. c. 67, s. 6.

Duties and powers of fence-viewers.

7.—(1) The fence-viewers shall make an award, Form 3, signed by any two of them respecting the matters in dispute; and the award shall specify the locality, quantity, description and the lowest price of the fence awarded to be made and the time within which the work shall be done, and shall state by which of the parties or in what proportion the costs of the proceedings shall be paid.

Award of fence-viewers. Contents.

(2) In making the award the fence-viewers shall have regard to the nature of the fences in use in the locality, the

Character of fence.

pecuniary circumstances of the parties and the suitability of the fence to the wants of each of them.

Location
of fence.

(3) Where, from the formation of the ground by reason of streams or other causes, it is, in the opinion of the fence-viewers, impracticable to locate the fence upon the line between the lands of the parties, they may locate it either wholly or partly on the land of either of the parties where it seems to be most convenient; but such location shall not in any way affect the title to the land.

Employ-
ment of
surveyor.

(4) The fence-viewers may employ an Ontario Land Surveyor and have the locality described by metes and bounds. 3-4 Geo. V. c. 67, s. 7.

Deposit of
award.

Award may
be evidence.

Notification
of award.

8. The award shall be deposited in the office of the clerk of the municipality in which the land of the owner who initiated the proceedings is situate, and may be proved by a copy certified by the clerk; and notice in writing of its being made shall be given by the clerk to all parties interested. 3-4 Geo. V. c. 67, s. 8.

Extending
time for
making
fence.

9. A judge may, on application of either party, extend the time for making the fence as he may deem just. 3-4 Geo. V. c. 67, s. 9.

Award, how
enforced.

10.—(1) The party desiring to enforce the award shall serve upon the owner or occupant of the adjoining land a notice in writing requiring him to obey the award, and if it is not obeyed within one month after service of the notice may do the work which the award directs, and may immediately take proceedings to recover its value and the costs from the owner by action in the division court of any division in which any part of the land affected by the award is situate.

Collection
of debt and
costs as
taxes.

(2) Instead of requiring execution to be issued upon the judgment so recovered the party entitled to enforce the same may obtain a certificate from the clerk of the division court of the amount due for debt and costs in respect of such judgment, and shall be entitled, upon lodging the same with the clerk of the municipality, to have the amount so certified placed upon the collector's roll, and the same may be collected in the same manner as taxes are collected, and shall until so collected or otherwise paid be a charge upon the land liable for the payment thereof, and in such case execution shall not thereafter issue on such judgment. 3-4 Geo. V. c. 67, s. 10.

Award to be
a charge on
land, if
registered.

11.—(1) The award may be registered in the proper registry or land titles office and when registered shall be a charge upon the land affected by it.

How regis-
tered.

(2) Registration may be by deposit of a duplicate of the award or of a copy, verified by affidavit, together with an affidavit of the execution of the award. 3-4 Geo. V. c. 67, s. 11.

12.—(1) Any person dissatisfied with the award may ap-^{Appeals.}
 peal therefrom to a judge.

(2) The appellant shall, within one week from the time^{Notice of}
 when he was notified of the award, serve upon the fence-^{appeal.}
 viewers and all parties interested a notice in writing of his
 intention to appeal, and the notice may be served as other
 notices mentioned in this Act.

(3) The appellant shall also deliver a copy of the notice^{To Clerk.}
 to the clerk of the division court of the division in which the
 land lies, and the clerk shall immediately notify the judge of
 such appeal; and the judge shall fix a time and place for the
 hearing of the appeal and shall communicate the same to the
 clerk, and, if he thinks fit, may order such sum of money to
 be paid by the appellant to the clerk as will be a sufficient
 indemnity against the costs of the appeal.

(4) The clerk shall notify the fence-viewers and all parties^{Notice of}
 interested of the time and place of hearing, in the manner^{hearing.}
 hereinbefore provided for the service of other notices under
 this Act.

(5) The judge shall hear and determine the appeal and^{Powers of}
 may set aside, alter or affirm the award, or correct any error^{the Judge.}
 therein, and may examine the parties and their witnesses on
 oath, and may inspect the premises; and may order payment
 of costs by either party and fix the amount of such costs.

(6) The decision of the Judge shall be final; and the award,^{Decision of}
 as altered or affirmed, shall be dealt with in all respects as it^{Judge to}
 would have been if it had not been appealed from.^{be final.}

(7) The practice and procedure on the appeal, including^{Procedure.}
 the fees payable for subpoenas and the conduct money of wit-
 nesses, shall be the same, as nearly as may be, as in the case
 of a suit in the division court.

(8) Where the award affects land in two or more counties^{Where}
 or districts the appeal may be to a judge of the county or^{land in}
 district court of the county or district in which any part of^{different}
 the land is situate. 3-4 Geo. V. c. 67, s. 12.^{counties.}

13.—(1) Each fence-viewer shall be entitled to \$2 for^{Fees to}
 every day's work under this Act, and an Ontario Land Sur-^{fence-}
 veyor and a witness shall be entitled to the same compensa-^{viewers,}
 tion as if subpoenaed in a division court.^{surveyors}
^{and}
^{witnesses.}

(2) The corporation of the municipality shall, at the expir-^{When to be}
 ation of the time for appeal or after appeal as the case may^{paid, etc.}
 be, pay to the fence-viewers their fees, and shall, unless the
 same be forthwith repaid by the person adjudged to pay the
 same, place the amount upon the collector's roll as a charge
 against such person, and the same may be collected in the
 same manner as municipal taxes. 3-4 Geo. V. c. 67, s. 13.

Judge's
expenses.

14.—(1) If the judge inspects the premises or hears the appeal at a place other than the county or district town he shall be entitled to be paid the actual expenses incurred by him and, in the order setting aside, altering or affirming the award, shall fix the amount of such expenses and name the person by whom the same shall be paid.

Municipality
to pay
expenses
and collect
amount.

(2) The judge shall be paid by the corporation of the municipality the amount so fixed, and the same shall be collected in the same manner as is provided in respect to the fence-viewer's fees. 3-4 Geo. V. c. 67, s. 14.

Enforcement
of agree-
ments.

15. Any agreement in writing, Form 4, between owners respecting a line fence may be filed or registered and enforced as if it was an award of fence-viewers. 3-4 Geo. V. c. 67, s. 15.

Owner of
division
fence which
in part
encloses an-
other per-
son's land
not to
remove
same ex-
cept upon
notice, etc.

16.—(1) The owner of the whole or part of a line fence which forms part of the fence enclosing the occupied or improved land of another person shall not take down or remove any part of such fence,

(a) without giving at least six months' previous notice of his intention to the owner or occupant of such adjacent enclosure unless such last mentioned owner or occupant, after demand made upon him in writing by the owner of such fence, refuses to pay therefor the sum determined as provided by section 7; or

(b) if such owner or occupant will pay to the owner of such fence or part thereof such sum as the fence-viewers may award to be paid therefor under section 7.

Provisions
of this Act
to apply to
cases under
this section.

(2) The provisions of this Act for determining disputes between the owners of adjoining occupied lands, the manner of enforcing awards and appeals therefrom and the forms and all other provisions of this Act, so far as applicable, shall apply to proceedings under this section. 3-4 Geo. V. c. 67, s. 16.

Provision,
when a tree
is thrown
down across
a line
fence.

17.—(1) If any tree is thrown down by accident or otherwise across a line fence, or in any way in and upon the land adjoining that upon which such tree stood, causing damage to the crop upon such land or to such fence, the owner or occupant of the land on which such tree stood shall remove the same forthwith, and also forthwith repair the fence and otherwise make good any damage caused by the falling of the tree.

When in-
jured party
may remove
tree.

(2) On his neglect or refusal so to do for forty-eight hours after notice in writing to remove the tree the injured person may remove the same in the most convenient and inexpensive manner, and may make good the fence so damaged, and may retain such tree to remunerate him for such removal, and may

also recover any further amount of damages beyond the value of such tree from the person liable to pay it.

(3) For the purpose of such removal the owner of the tree may enter into and upon such adjoining land doing no unnecessary spoil or waste. Right of entry.

(4) All questions arising under this section shall be adj-
justed by three fence-viewers of the municipality, the decision
of any two of whom shall be binding upon the parties. Fence-viewers to decide disputes.
3-4 Geo. V. c. 67, s. 17.

[For the powers of municipalities to pass by-laws regulating division fences see *The Municipal Act, Rev. Stat. c. 192, s. 399, par. 30.*]

FORM 1.

(Section 4.)

NOTICE TO OPPOSITE PARTY.

Take notice, that Mr. _____, Mr. _____, and Mr. _____, three fence-viewers of this locality, will attend on the _____ day of _____ 19____, at the hour of _____, to view and arbitrate upon the line fence in dispute between our lands, being lots (or parts of lots) one and two in the _____ concession of the township of _____ in the county of _____.

Dated the _____ day of _____, 19____

A. B.,
Owner of lot 1.

To C. D.,
Owner of lot 2.

3-4 Geo. V. c. 67, Sched. Form 1.

FORM 2.

(Section 4.)

NOTICE TO FENCE-VIEWERS.

Take notice that I require you to attend at _____ on the _____ day of _____, 19____, at _____ o'clock, a.m., to view and arbitrate on the line fence between my land and that of Mr. _____, being lots (or parts of lots) Nos. one and two in the _____ concession of the township of _____ in the county of _____.

Dated the _____ day of _____, 19____

A. B.,
Owner of lot 1.

To
Fence-viewers.

3-4 Geo. V. c. 67, Sched. Form 2.

FORM 3.

(Section 7.)

AWARD.

We, the fence-viewers of _____ (name of the locality), having been nominated to view and arbitrate upon the line fence between _____ of (name and description of owner who notified) and (name and description of owner notified), which fence is to be made and maintained between (describe land), and having examined the land and duly acted according to *The Line Fences Act*, award as follows: That part of the line which commences at _____ and ends at (describe the points) shall be fenced, and the fence maintained by _____ and that part thereof which commences at _____ and ends at (describe the points) shall be fenced, and the fence maintained by _____. The fence shall be of the following description (state the kind of fence, height, material, etc.), and shall cost at least _____ per rod. The work shall be commenced within _____ days, and completed within _____ days from this date, and the costs shall be paid by (state by whom to be paid; if by both, in what proportion).

Dated the _____ day of _____ 19____

(Signatures of fence-viewers.)

Witnesses:

3-4 Geo. V. c. 67, Sched. Form 3.

FORM 4.

(Section 15.)

AGREEMENT.

We _____ and _____, owners respectively of lots (or parts of lots) one and two in the _____ concession of the township of _____, in the county of _____, do agree that the line fence which divides our lands shall be made and maintained by us as follows: (follow the same form as award.)

Dated the _____ day of _____ 19____

Witnesses:

(Signatures of Parties.)

3-4 Geo. V. c. 67, Sched. Form 4.

CHAPTER 260.

An Act respecting Ditches and Watercourses.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ditches and Watercourses Act*. 2 Geo. V. c. 74, s. 1. Short title.

2. This Act shall not affect the Acts relating to municipal or government drainage work. 2 Geo. V. c. 74, s. 2. Certain Acts not affected.

3. In this Act,

- (a) "Clear days" shall mean exclusive of the first and last days of any number of days prescribed; Interpretation.
"Clear days."
- (b) "County" shall include District; "County."
- (c) "County Court" shall include District Court; "County Court."
- (d) "Construction" shall mean the original opening or making of a ditch by artificial means; "Construction."
- (e) "Ditch" shall mean and include a drain opened or covered wholly or in part, and whether or not in the channel of a natural stream, creek or water-course, and also the work and material necessary for bridges, culverts, catch-basins, and guards; "Ditch."
- (f) "Engineer" shall mean the person appointed by a municipal council as engineer to carry out the provisions of this Act; "Engineer."
- (g) "Judge" shall mean the senior, junior, or acting Judge of the County Court of the county in which the lands in respect of which the proceedings under this Act are taken are situate; "Judge."
- (h) "Maintenance" shall mean and include the preservation of a ditch and keeping it in repair; "Maintenance."
- (i) "Non-resident" shall mean a person who does not reside within the municipality in which his land, affected by proceedings under this Act, is situate; "Non-resident."
- (j) "Owner" or "owners" shall mean and include the owner or possessor of any real or substantial interest in land, whether held in fee simple, fee tail, for one or more life or lives or for a term of "Owner," meaning of.

years not less than ten, a lessee for a term of not less than five years with an option to purchase, the personal representative of a deceased owner, the committee of a lunatic owner, the guardian of an infant owner, any person entitled to sell and convey the land, an agent under a general power of attorney authorizing the appointee to manage and lease the land, and a municipal corporation as regards any highway or other land under its jurisdiction. 2 Geo. V. c. 74, s. 3.

Application
to drainage
of lands for
mining or
manufactur-
ing purposes.

4.—(1) This Act shall apply to the drainage, amongst other land, of land for mining or manufacturing purposes, so as to enable the owner thereof to take proceedings thereunder; but in such case the engineer, in default of agreement, shall determine whether the land of other owners through which the ditch may pass shall be called upon to contribute to the construction of the ditch, and whether and to what extent such land may require drainage or will be benefited thereby.

Where lands
of other
owners
not benefited.

(2) Where the engineer finds that the land of such other owners does not require drainage and that the ditch will not substantially benefit such land, he shall determine what compensation the owner of the land used for mining or manufacturing purposes shall make for any injury caused to such other owners by reason of the ditch passing through their land; but if such land will be substantially benefited by such drainage, he shall determine the extent of such benefit and shall deduct the same from the amount of compensation so to be made, or shall take the proceedings provided for by subsection 3 of section 16, as the case may require. 2 Geo. V. c. 74, s. 4.

Where
benefited.

Appoint-
ment of
engineer.

5.—(1) The council of every local municipality shall by by-law, Form 1, appoint a civil engineer, Ontario land surveyor or other competent person to be the engineer to carry out the provisions of this Act, and he shall be and continue an officer of the corporation until another engineer is appointed in his stead who may continue any work already undertaken.

Fees of
clerk and
engineer.

(2) The council shall also, by by-law, provide for the payment to the clerk of the municipality of a reasonable remuneration for services performed by him in carrying out the provisions of this Act, and shall also by by-law fix the charges to be made by the engineer for services performed by him under this Act.

Oath of
engineer.

(3) Every engineer before entering upon his duties shall take and subscribe the following oath and shall file the same with the clerk of the municipality:

In the matter of *The Ditches and Watercourses Act*.

I (name in full) of the _____ of _____ in the county
(or district) of _____, engineer (or surveyor or as the case may

be) make oath and say, (or do solemnly declare and affirm), that I will to the best of my skill, knowledge, judgment and ability, honestly and faithfully and without fear of, favour to, or prejudice against, any owner or owners perform the duties from time to time assigned to me in connection with any work under *The Ditches and Watercourses Act*, and make a true and just award thereon.

Sworn (or affirmed)
before me at of this
in the of this
day of 19

A Commissioner, etc., (or Township Clerk, or J.P.)

2 Geo. V. c. 74, s. 5.

6.—(1) Every ditch constructed under this Act shall be continued to a sufficient outlet, but shall not pass through or into more than seven original township lots, exclusive of any part of the ditch on or across a road allowance, unless the council of any municipality, upon the petition of a majority of the owners of all the land to be affected by the ditch, passes a resolution authorizing the extension thereof through or into any other lots within such municipality, or any adjoining municipality, and upon the passing of such resolution the proposed ditch may, subject to subsection 2, be extended in pursuance of such resolution. Limit of work.

(2) No ditch, the whole cost of which, according to the estimate of the engineer or the agreement of the parties, will exceed \$1,500, shall be constructed under the provisions of this Act. 2 Geo. V. c. 74, s. 6. Limit of cost.

7. The land, the owners of which may be made liable for the construction of a ditch under this Act, shall be that lying within one hundred and fifty rods from the sides and point of commencement of the ditch, but land through or into which the ditch does not pass and which also adjoins any road allowance traversed by the ditch shall not be liable, except when directly benefited, and then only for the direct benefit. 2 Geo. V. c. 74, s. 7. Limit of area to be assessed.

8.—(1) The owner of land who requires the construction of a ditch thereon, before filing with the clerk of the municipality the requisition provided for by section 13, shall serve upon the owners or occupants of the other land to be affected a notice in writing, Form 2, signed by him and naming a day and hour and also a place convenient to the site of the ditch, at which all the owners are to meet and estimate the cost of the ditch, and agree, if possible, upon the apportionment of the work and supply of material for construction, among the several owners, according to their respective interests therein, and settle the proportions in which the ditch shall be maintained. Notice to other owners affected.

Service of
notice.

(2) The notices shall be served not less than twelve clear days before the time named therein for meeting.

Application
to set aside
proceedings
where re-
quisitioner
is not
owner.

(3) The owner or occupant of any land to be affected who has been served with the notice mentioned in subsection 1 may within five clear days after service of the notice upon him apply to the Judge to set aside the proceedings on the ground that the person who commenced them is not an owner within the meaning of this Act.

Presumption
of owner-
ship when
conclusive.

(4) If such application is not made, or, if made, is unsuccessful, the right of the person who commenced the proceedings to do so shall not thereafter be open to question, but shall be conclusively presumed. 2 Geo. V. c. 74, s. 8.

Form of
agreement,
filing.

9. If an agreement is arrived at by the owners, it shall be reduced to writing, Form 3, and signed by all the owners, and shall within six days after the signing thereof be filed with the clerk of the municipality in which the land, the owner of which requires the ditch, is situate; but if the lands affected lie in two or more municipalities the agreement shall be in as many parts as there are municipalities, and one part shall be filed with the clerk of each municipality, and the agreement may be enforced in the same manner as an award of the engineer as hereinafter provided. 2 Geo. V. c. 74, s. 9.

Informal-
ties not to
invalidate
proceedings.

10. Want of strict compliance with the provisions of sections 8 and 9 shall not avoid any proceedings taken or agreement made and entered into thereunder, or invalidate any subsequent proceedings taken thereunder, provided such notices have been duly served, and any such agreement may be amended so as to conform to this Act, with the consent in writing of the parties thereto, filed in the same manner as the agreement, or by order of the Judge on an appeal under this Act. 2 Geo. V. c. 74, s. 10.

Adjourning
meeting for
purpose
of adding
parties.

11. If at the meeting of owners it appears that the notice required by section 8 has not been duly served, the owners present at such meeting may adjourn the meeting to some subsequent day to enable the necessary notices to be served and such adjourned meeting shall, if such notices have been served, be a sufficient compliance with this Act. 2 Geo. V. c. 74, s. 11.

Signature
on be-
half of mun-
cipality.

12. The head of the council of any municipality may sign the agreement and his signature shall be binding upon the corporation. 2 Geo. V. c. 74, s. 12.

Requisition
for appoint-
ment by en-
gineer when
no agree-
ment arrived
at.

13. If an agreement is not arrived at by the owners at the meeting, or within five days thereafter, the owner requiring the ditch may file with the clerk of the municipality in which his land is situate a requisition, Form 4, naming therein all the several parcels of land that will be affected by the ditch

and the respective owners thereof, and requesting that the engineer appoint a time and place in the locality of the proposed ditch, at which he will attend, to make an examination as hereinafter provided. 2 Geo. V. c. 74, s. 13.

14.—(1) The clerk, upon receiving the requisition, shall forthwith transmit a copy of it by registered post to the engineer.

Notice to engineer and notice of appointment made by engineer.

(2) On the receipt of the same by the engineer he shall notify the clerk in writing appointing a time and place at which he will attend in answer to the requisition, which time shall be not less than ten and not more than sixteen clear days from the day on which he received the copy of the requisition.

Notifying clerk thereof.

(3) On the receipt of such notice of the appointment from the engineer the clerk shall file the same with the requisition, and shall forthwith send, by registered post, a copy of the notice of appointment to the owner making the requisition, who shall, at least four clear days before the time so appointed, serve upon the other owners named in the requisition a notice, Form 5, requiring their attendance at the time and place fixed by the engineer, and shall, after serving such notice, indorse on one copy thereof the time and manner of service and leave the same with the engineer not later than the day before that fixed in the notice of appointment. 2 Geo. V. c. 74, s. 14.

Notice to all parties.

15.—(1) Notices shall be served personally or by leaving the same at the usual place of abode of the owner or occupant with a grown-up person residing there, and in case of non-residents, upon the agent of the owner or by registered post addressed to the owner at the post office nearest to his last known place of residence, and where his place of residence is not known the notice may be served in such manner as the Judge may direct.

Mode of serving notices.

(2) An occupant, not the owner of the land, notified in the manner provided by this Act, shall immediately notify the owner thereof, and shall, if he neglects to do so, be liable for all damages suffered by such owner by reason of such neglect. 2 Geo. V. c. 74, s. 15.

Occupant to notify owner.

16.—(1) The engineer shall attend at the time and place appointed by him and shall examine the locality, and if he deems it proper, or if requested by any of the owners, may examine the owners and their witnesses present and take their evidence, and may administer an oath to any owner or witness examined by him.

Examination by engineer.

(2) If upon examining the locality the engineer is of opinion that the land of owners upon whom notice has not been served will be affected by the ditch, he shall adjourn the proceedings to a day named, and direct a notice of the adjourned

Adjournment to serve other owners.

meeting similar to that required by section 14 to be served on such owners by the owner making the requisition for the purpose of allowing such owners to be present and to be heard upon the examination and taking of evidence.

Further proceedings by engineer making award.

(3) The engineer may adjourn his examination and the hearing of evidence from time to time and if he finds that the ditch is required he shall, within thirty days after his first attendance, make his award in writing, Form 6, specifying clearly the location, description and course of the ditch, its commencement and termination, apportioning the work and the furnishing of material among the lands affected and the owners thereof, according to his estimate of their respective interests in the ditch, fixing the time for performance by the respective owners, apportioning the maintenance of the ditch among all or any of the owners so that as far as practicable each owner shall maintain the portion on his own land; and stating the amount of his fees and the other charges and by whom the same shall be paid.

Time for making award not to include time required for approval by Railway Commissioners.

(4) The period prescribed for the engineer to make his award shall be exclusive of the time required to obtain the approval of the works or the specifications or plans thereof by the Ontario Railway and Municipal Board or the Board of Railway Commissioners for Canada, where such approval is necessary.

Specifying material for covering ditch.

(5) Where a ditch or any part thereof is to be covered, the engineer shall in his award specify the kind of material to be used in the covered part. 2 Geo. V. c. 74, s. 16.

Powers of engineer.

(6) The engineer and his assistants, when engaged in the performance of their duties under this Act during or after the examination of the locality, may pass over, measure along, ascertain the bearings of any line, plant stakes, take levels and do such other work as he shall deem necessary for the performance of the said work on the land of any person, doing no unnecessary damage thereto, without being guilty of trespass or otherwise incurring liability.

Penalty.

(7) Any person who interferes with or obstructs the engineer or his assistants in the exercise of the powers conferred by subsection 6 shall incur a penalty not exceeding \$100, recoverable under *The Ontario Summary Convictions Act*, 3-4 Geo. V. c. 68, s. 1.

Rev. Stat. c. 90.

Rock cutting or blasting.

17. Where rock cutting or blasting is necessary, if the engineer is of opinion that it can be done more conveniently or less expensively by letting the work by tender or otherwise by public competition than if it were done by the owners he may by his award direct that it be so let, and in that case he shall by the award fix and determine the part or proportion of the cost of the work which each of the owners is to pay. 2 Geo. V. c. 74, s. 17.

18. If the engineer is of the opinion that the land of any owner will not be sufficiently affected by the construction of the ditch to make him liable to perform any part thereof, and that it is or is not necessary, as the case may be, to construct the ditch across or into his land, he may, by his award, relieve such owner from performing any part of the work of the ditch and may place its construction on the other owners; and any person carrying out the provisions of the award upon the land of the owner so relieved shall not be a trespasser if he causes no unnecessary damage, and he shall replace any fences opened or removed by him. 2 Geo. V. c. 74, s. 18.

Engineer may relieve person not benefited.

Power to perform work.

19.—(1) The award and any plan, profile, and specifications of the ditch shall be in as many parts as there are municipalities in which land affected by the award is situate.

Award, plan, etc.

(2) The engineer forthwith, after making the award, shall file one part thereof and of any plan, profile or specifications with the clerk of each of the municipalities, and the same may be given in evidence in any legal proceedings by a copy certified by the clerk.

Filing award, etc.

(3) The clerk, upon the filing of the award, shall notify each of the persons affected thereby within the municipality of which he is clerk, by registered letter or personal service, of the filing of the same, and the part of the work to be done and material to be furnished by the persons so notified as shown by the award, and shall keep a book in which he shall record the names of the persons to whom he sent notices, the addresses to which the same were sent, and the date upon which the same were deposited in the post office or personally served. 2 Geo. V. c. 74, s. 19.

Notice to persons affected.

20. If the land affected by the ditch is situate in two or more municipalities, the engineer of the municipality in which proceedings were commenced may continue the ditch into or through so much of the land in any other municipality as may be found necessary, but within the limit of length hereinbefore provided, and all proceedings authorized by this Act shall be taken and carried on in the municipality in which the proceedings were commenced. 2 Geo. V. c. 74, s. 20.

Powers of engineer of municipality in which proceedings commenced.

21.—(1) Any owner affected by the award, within fifteen clear days from the date of the mailing or service of the last of the notices of the filing of the award, may appeal therefrom to the Judge.

Appeals from award to County Judge.

(2) The appellant shall serve upon the clerk of the municipality in which the proceedings were commenced a notice in writing of his intention to appeal, shortly setting forth the grounds of appeal.

Notice of appeal.

Clerk to notify Judge and Judge to fix time and place for hearing.

(3) The clerk, after the expiration of the time for appeal, shall transmit by registered post or deliver a copy of the notice or notices of appeal and a certified copy of the award and the plans and specifications to the Judge, who shall forthwith, upon the receipt thereof, notify the clerk of the time he appoints for the hearing of the appeal, and shall fix the place of hearing at the town hall or other place of meeting of the council of the municipality in which the proceedings were commenced, unless, for greater convenience and to save expense, he fixes some other place.

Indemnity against costs of appeal.

(4) The Judge may order such sum to be paid by the appellant to the clerk as will be a sufficient indemnity against the costs of the appeal.

Notice to engineer and all parties.

(5) The clerk upon receiving notice from the Judge shall forthwith notify the engineer and all parties interested in the manner provided for the service of notices.

Inspection of premises by another engineer.

(6) An appellant may have the land inspected by any other engineer or person who, for such purposes, may enter upon the land, but shall do no unnecessary damage.

Clerk of the Court.

(7) The clerk to whom notice of appeal is given shall be the clerk of the court and shall record the proceedings.

Judge to hear and determine within two months.

(8) It shall be the duty of the Judge to hear and determine all the appeals within two months after receiving notice thereof from the clerk, or within such further period as, on hearing the parties, he may deem necessary, as provided by subsection 9, but no proceedings under this Act shall be rendered invalid by the failure of the Judge to hear and determine the appeal within such period.

Powers of Judge on appeal.

(9) The Judge may examine parties and witnesses on oath and may inspect the land and may require the engineer to accompany him, and may alter or affirm the award and correct any errors therein.

Costs of appeal.

(10) If the award is affirmed or altered, the costs of the appeal shall be in the discretion of the Judge; but, if set aside, he may order payment of the costs mentioned in the award, and the costs of appeal by the parties to the award, or any of them, as to him may seem just, and may fix the amount of such costs.

Depriving engineer of fees when guilty of misconduct.

(11) If the Judge finds that the engineer has knowingly and wilfully favoured any one or more of the parties to the proceedings, or has neglected his duty, he may direct that the engineer be deprived of all fees in respect to the award, or of such part thereof as the Judge may deem proper, but this shall not deprive any party to the proceedings of any remedy he may otherwise have against the engineer.

Fees and disbursements of Judge.

(12) The Judge shall be entitled to five dollars a day and necessary travelling expenses for holding a court for the

trial of appeals, including the inspection of the land, which charge shall be part of the costs of the appeal.

(13) The order of the Judge shall be filed with the clerk, and the award as altered or affirmed, and the order of the Judge as to costs, may be enforced in the same manner as the award of the engineer, and the time for the performance of the award shall be computed from the date of the judgment on the appeal. Enforcement of award as amended.

(14) The clerk shall immediately after the hearing send by registered post to the clerk of any other municipality in which land affected by the ditch is situate a certified copy of the changes, if any, made in the award by the Judge which shall be filed with the award, and each clerk shall forthwith, by registered letter, notify every owner within his municipality of any change made in the work and material assigned to such owner. Notice of changes to be given to clerk and filed with award.

(15) If the award is set aside, the clerk shall forthwith notify the fact to the clerk of every other municipality in which land affected by the award is situate. 2 Geo. V. c. 74, s. 21. Notice of setting aside.

22. No award shall be set aside for want of form only or for want of strict compliance with the provisions of this Act, and the Judge, instead of setting aside the award, may amend it or the other proceedings or may refer back the award to the engineer, with such directions as the Judge may deem necessary. 2 Geo. V. c. 74, s. 22. Judge may amend or refer back award.

23. An award shall, after the time limited for an appeal to the Judge and after the determination of appeals, if any, by him where the award is affirmed, be valid and binding, to all intents and purposes, notwithstanding any defect in form or substance either in the award or in any of the proceedings prior to the making of the award. 2 Geo. V. c. 74, s. 23. When award to be binding notwithstanding defects.

24. On an appeal from an award the Judge shall possess all such powers for compelling the attendance of and for the examination on oath of all parties and other persons as belong to or might be exercised by him in the County Court. 2 Geo. V. c. 74, s. 24. Powers of Judge as to taking evidence.

25.—(1) Upon an appeal, the clerk shall issue summonses to witnesses, upon the application of any party to the proceedings, or upon an order of the Judge for the attendance of any person as a witness before him. Clerk may issue summonses to witness.

(2) The summons shall have the same force and effect as a subpoena issued out of the County Court. Effect of summons.

(3) The fees to be allowed to witnesses shall be upon the scale of fees allowed to witnesses in an action in the Division Court. 2 Geo. V. c. 74, s. 25. Witness fees.

Payment
of costs by
municipality.

26.—(1) Subject to the provisions of section 27, the corporation of the municipality in which the proceedings were commenced shall within ten days after the time for appealing or after the determination of the appeals, as the case may be, pay to the engineer and to the judge and all other persons the fees, charges and costs awarded or adjudged to be paid to them, and as respects the portion thereof payable by the owners of land situate within the municipality the same shall be forthwith repaid by such owners to the treasurer of the municipality.

Charge of
same on
land of
owner.

(2) If default is made by any owner in repaying the amount for which he is liable, the same, with seven per cent. added thereto, shall form a charge on his land and may be collected in like manner as municipal taxes, and the council shall cause the same to be placed on the collector's roll and to be so collected.

Where lands
are in more
than one
municipality.

(3) Where the land affected by the award is situate within two or more municipalities, the corporation of each of the other municipalities shall forthwith, after notice in writing, repay to the corporation of the municipality in which the proceedings were commenced the sums for which the owners of land within its limits are liable, and the provisions of subsection 2 shall apply in respect of the sums so repaid. 2 Geo. V. c. 74, s. 26.

Letting
rock cut-
ting or
blasting
by tender.

27. Where the award provides for rock cutting or blasting, the engineer shall let such work by tender or otherwise by public competition, and upon completion of it shall certify, Form 8, to the clerk of the municipality in which the proceedings were commenced the cost thereof, including his fees and the expenses, and the like proceedings shall be had and the like duties be performed in respect thereof as are provided for by sections 19 and 26, which shall apply *mutatis mutandis*. 2 Geo. V. c. 74, s. 27.

Letting
work on
non-com-
pliance with
award.

28.—(1) At the expiration of the time limited by the award for the completion of the ditch, the engineer shall inspect the same, and if he finds the ditch or any part thereof not completed in accordance with the award he may let the work and supply of material to the lowest bidder who shall furnish security to the corporation, to be approved by the engineer, for the due performance thereof within a time to be fixed by the engineer, but the letting shall not take place:—

- (a) Until notice in writing of the intended letting has been posted up for four clear days in at least three conspicuous places in the neighbourhood of the place at which the work is to be done; and
- (b) Until after four days from the sending of copies of the notice by registered post to the last known addresses of the persons interested in the award

who do not reside in the municipality or municipalities as the case may be.

(2) If the engineer is satisfied of the good faith of any person failing in the performance of the award, and there is good reason for the non-performance thereof, he may, in his discretion, and upon payment of his fees and charges, extend the time for performance. Extension of time for compliance.

(3) Any owner in default who, after proceedings are begun to let the same, supplies the material and does the work, shall be liable for the fees and expenses occasioned by his default, and the same shall form a charge on his land; and, if not paid by him after notice, the council shall pay the same on the certificate of the engineer, and shall cause the amount, with seven per cent. added thereto, to be placed on the collector's roll against the land of the person in default, to be collected in the same manner as municipal taxes. Liability of person in default of doing work after proceedings begun.

(4) The engineer may let the work and supply of material directed by the agreement or award, or any part thereof, a second time or oftener if it becomes necessary in order to secure its performance and completion. 2 Geo. V. c. 74. s. 28. Power to re-let.

29.—(1) The engineer, within ten days after receipt of notice in writing of the supplying of material and completion of the work let, as in the next preceding section mentioned, shall inspect the same, and if he finds the material furnished and the work completed, shall certify the same in writing, Form 8, to the clerk of the municipality by which he was appointed. Certificates of engineer upon completion of work let.

(2) Where land situate within two or more municipalities are affected by the certificate of the engineer, the certificate shall be in as many parts as there are municipalities and one of such parts shall be transmitted by the engineer to the clerk of each of them. Where lands affected in more municipalities than one.

(3) The provisions of section 26 shall apply to the amount payable to the contractor and the fees and charges of the engineer as so certified. 2 Geo. V. c. 74, s. 29. Costs, fees and charges.

30. If an owner during or after the construction of a ditch desires to avail himself thereof for the purpose of draining land other than that contemplated by the original proceedings he may avail himself of the provisions of this Act as if he were an owner requiring the construction of a ditch, but no owner shall make use of a ditch after construction unless under an agreement or award pursuant to the provisions of this Act. 2 Geo. V. c. 74, s. 30. Owners desiring to avail themselves of ditch after construction.

31. This Act shall apply to the deepening, widening or covering of any ditch already or hereafter constructed, and the proceedings to be taken for procuring such deepening, Deepening, widening or covering ditch.

widening or covering shall be the same as for the construction of a ditch, but in no case shall a ditch be covered unless when covered it will provide capacity for all the surface and other water from land and roads draining naturally towards and into it as well as for the water from all the land made liable for the construction thereof. 2 Geo. V. c. 74, s. 31.

Maintenance of ditches heretofore or hereafter constructed.

32. A ditch, whether covered or open, constructed, or any creek or watercourse that has been deepened or widened, under the provisions of any former Act respecting ditches and watercourses, or constructed, deepened, widened or covered under this Act, shall be maintained by the respective owners in such proportion as is provided in the original or any subsequent agreement or award; and the manner of enforcing the same shall be as hereinafter provided. 2 Geo. V. c. 74, s. 32.

Enforcing maintenance.

33.—(1) If an owner whose duty it is to maintain any portion of a ditch neglects to maintain the same in the manner provided by the agreement or award, any of the owners, parties to the agreement or award, whose land is affected by the ditch, may, in writing, notify the owner making default, to have his portion put in repair within thirty days from the receipt of such notice; and if the repairs are not made and completed within such thirty days, the owner giving the notice may notify the engineer in writing to inspect the portion complained of.

Notice to repair.

Proceedings thereon.

(2) The inspection of the engineer and the proceedings for doing and completing the repairs required and enforcing payment of costs, fees and charges shall be as provided in the case of the non-completion of the construction of a ditch; but if the engineer finds that there is no cause for complaint he shall so certify, with the amount of his fees and charges, to the owner who complained and also to the clerk of the municipality, and such owner shall pay the fees and charges of the engineer, and if not forthwith paid the same shall be charged and collected in the same manner as is provided for in the case of other certificates of the engineer. 2 Geo. V. c. 74, s. 33.

If no cause of complaint found.

Proceedings for deepening, etc., by owner or person interested.

34. An owner interested in or affected by a ditch heretofore or hereafter constructed which has not been constructed under any of the Acts referred to in section 32 or under this Act, or under any Act relating to the construction of drainage work by local assessment, may take proceedings for the deepening, widening, extending, covering or repairing of such ditch in the same manner as for the construction of a ditch under this Act; but the extent of the work, the cost thereof and the assessment therefor shall not exceed the limitations imposed by sections 6 and 7. 2 Geo. V. c. 74, s. 34.

35.—(1) Subject to the provisions of subsection 2, an owner, party to the agreement or award, whose land is affected by a ditch, whether constructed under this Act or any other Act respecting ditches and watercourses, at any time after the expiration of two years, or in the case of a covered drain of one year from the completion thereof, may take proceedings for the reconsideration of the agreement or award under which it was constructed and the proceedings shall be the same as are hereinbefore provided in the case of the construction of a ditch. Reconsideration of agreement or award.

(2) If a ditch, after its construction, proves insufficient for the purposes for which it was constructed so as to cause an overflow of water upon any land along the ditch and damage to the same, any owner, party to the agreement or award, may at any time after the expiration of six months from the completion of the ditch take proceedings for the reconsideration of the agreement or award under which such ditch was constructed for the purpose of remedying the defect in that particular respect. Where ditch after construction proves insufficient. 2 Geo. V. c. 74, s. 35.

36. An engineer who wilfully neglects to make any inspection provided for by this Act for thirty days after he has received written notice to inspect, shall incur a penalty of not less than \$5 and not more than \$10, recoverable under *The Ontario Summary Convictions Act*, and every such penalty, when recovered, shall be paid over to the treasurer of the municipality in which the inspection should have been made. Penalty for engineer failing to inspect. Rev. Stat. c. 90. 2 Geo. V. c. 74, s. 36.

37. No action, suit or other proceeding shall lie or be taken for a mandamus or other order to enforce or compel the performance of an agreement or award or the completion of a ditch, but the same shall be enforced in the manner provided for in this Act. Actions for mandamus, etc., not to lie. 2 Geo. V. c. 74, s. 37.

38. It shall be the duty of the council of every municipality to keep printed copies of all the forms required by this Act. Forms to be supplied by municipality. 2 Geo. V. c. 74, s. 38.

FORM 1.

BY-LAW FOR APPOINTMENT OF ENGINEER.

A by-law for the appointment of an engineer under *The Ditches and Watercourses Act*.

Finally passed _____, 19 ____.

The municipal council of the _____ of _____ in the county (or district) of _____ enacts as follows:

1. Pursuant to the provisions of *The Ditches and Watercourses Act*, _____ (name of person) of the _____ of _____, in the _____ of _____, is appointed engineer for this municipality to carry out the provisions of the said Act.

2. The engineer shall be paid the following fees for services rendered under the Act (or as the case may be).

Reeve.

Clerk.

[L.S.]

2 Geo. V. c. 74, Sched. Form 1.

FORM 2.

NOTICE TO OWNERS OF LAND AFFECTED BY PROPOSED DITCH.

To

Sir,

I am the owner of lot (describing it) and as such owner I require a ditch to be constructed under *The Ditches and Watercourses Act*, to drain it (or if for reconsideration of agreement or award or to deepen, widen, cover or otherwise improve the ditch, state the object). The following other land will be affected: (here set out the other parcels of land, lot, concession or street and township or other local municipality, and the name of the owner in each case; also each road and the municipal corporation controlling it).

I hereby request you, as owner of (state his land), to attend at (state place of meeting), on _____ the _____ day of _____, 19 _____, at the hour of _____ o'clock in the _____ noon, with the object of agreeing on the respective portions of the work and materials to be done and furnished by the several owners interested and the several portions of the ditch to be maintained by them.

Dated _____ day of _____, 19 ____.

Yours, etc.,
(Name of Owner).

2 Geo. V. c. 74, Sched. Form 2.

FORM 3.

AGREEMENT BY OWNERS.

Whereas it is found necessary that a ditch should be constructed (or deepened, or widened, or otherwise improved) under the provisions of *The Ditches and Watercourses Act*, for the draining of the following land (and roads if any): (*here describe each parcel and give name of owner as in the notice, including the applicant's own land, stating lot, concession or street, and township or other local municipality, and also roads and by whom controlled.*)

Therefore we the owners within the meaning of the said Act of the said (and if roads and _____ the reeve of the said municipality on behalf of the council thereof) do agree each with the other as follows: That a ditch be constructed (*or as the case may be*) and we do hereby estimate the cost thereof at the sum of \$ _____, and the ditch shall be of the following description: (*here give point of commencement, course and termination, its depth, bottom and top width and other particulars as agreed upon, also any bridges, culverts or catch-basins, etc., required.*) I _____ owner of (*describe his land*) agree to (*here give portion of work to be done, or material to be supplied*), and to complete the performance thereof on or before the day of _____, 19____, I, _____ owner of, etc., (*as above, to the end of the ditch.*)

That the ditch when constructed shall be maintained as follows: I, _____, owner of (*describe his lands*) agree to maintain the portion of the ditch from (*fix the point of commencement*) to (*fix the point of termination of his portion*), I _____, owner of (*describe his land*) agree to maintain, etc., _____ (*as above to the end of the ditch.*)

Dated _____ day of _____, 19____.

Signed in the presence of

(*Signature of parties.*)

2 Geo. V. c. 74, Sched. Form 3.

FORM 4.

REQUISITION FOR EXAMINATION BY ENGINEER.

To (*name of clerk*),
Clerk of

(*P.O. address*).

Sir,—I am, within the meaning of *The Ditches and Watercourses Act*, the owner of lot (*describing it*) and I require the construction (or deepening, widening, covering or otherwise improving as the case may be), of a ditch under the provisions of the said Act, and the following land and roads will be affected: (*here describe each parcel to be affected as in the notice for the meeting to agree and state the name of the owner thereof*), and the said owners having met and failed to agree in regard to the same, I request that the engineer appointed by the municipality be requested to appoint a time and place at which he will attend and examine the premises, hear any evidence of the parties and their witnesses, and make his award.

Dated _____ day of _____, 19____.

(*Signature of the party or parties.*)

2 Geo. V. c. 74, Sched. Form 4.

FORM 5.

NOTICE OF APPOINTMENT FOR EXAMINATION BY ENGINEER.

To (name of owner).

(P.O. address).

Sir,—You are hereby notified that the engineer appointed by the municipality for the purpose of *The Ditches and Watercourses Act*, has, in answer to my requisition, fixed the hour of o'clock in the noon of , the day of 19 , to attend at (name the place appointed), and to examine the premises and site of the ditch required by me to be constructed (or as the case may be), under the provisions of the said Act, and you, as the owner of land affected, are required to attend with any witnesses that you may desire to have heard, at the said time and place.

Dated day of , 19 .

Yours, etc.,

(Signature of applicant.)

2 Geo. V. c. 74, Sched. Form 5.

FORM 6.

AWARD OF ENGINEER.

I, , the engineer appointed by the council of the municipality of the of in the county (or district) of , under the provisions of *The Ditches and Watercourses Act*, having been required so to do by the requisition of , owner of lot (describe as in requisition), filed with the clerk of the said municipality and representing that he requires certain work to be done under the provisions of the said Act for the draining of the said land, and that the following other land (and roads) will be affected:— (here set out the other parcels of land or roads affected as in the requisition), did attend at the time and place named in my notice in answer to said requisition, and having examined the locality (and the parties and their witnesses if such be the case) find that the ditch (or the deepening, widening, covering or otherwise improving of a ditch) is required. The location, description and course of the ditch, and its point of commencement and termination are as follows:

(Here describe the ditch as to all above particulars.)

The said works will affect the following land:—(here set forth the other land and the respective owners.) I do, therefore, award and apportion the work and the furnishing, of material among the land affected and the owners thereof according to my estimate of their respective interests in the said works as follows:—

1. (Name of owner and description of his land) shall make and complete (here fix the point of commencement and ending of his portion) and shall furnish the material (state what material), all of which, according to my estimate, will amount in value to \$, and I fix the time for the completion of such work and providing such material on the day of 19 , at furthest.

2. (Name of owner and description of his land, and so on as above to the end.)

I do further award and apportion the maintenance of the ditch as follows:—

1. (Name of owner and description of his land) shall maintain (here fix the points of commencement and ending of his portion.)

2. (Name of owner, etc., as above.)

(When rock drilling or blasting is directed add particulars required by section 17.)

The fees and the other charges attendant upon and for making this award are (here give fees and other charges, including clerk's fees in detail), amounting in all to \$, which shall be borne and paid as follows:—(state by whom and by what land respectively.)

Dated the day of , 19 .
 Witness, (Signature of Engineer.)
 2 Geo. V. c. 74, Sched. Form 6.

FORM 7.

CERTIFICATE OF ENGINEER.

(Default of Owner.)

To

Clerk of the of

I hereby certify that has furnished the material and completed the work (as the case may be) which under my award made under *The Ditches and Watercourses Act*, and dated the day of , 19 , owner of lot number (describe his land, giving township or otherwise), was adjudged to perform, and having failed in the performance of the same it was subsequently let by me to the said

for the sum of \$, and as he has now completed the performance thereof he is entitled to be paid the said amount.

I further certify that my fees and charges for my services rendered necessary by reason of such failure to perform are (stating items) \$, and said amount payable to the said contractor and the said fees and charges are chargeable on (describe property to be charged therewith) under the said Act, unless forthwith paid.

Dated the day of , 19 .
 (Signature of Engineer.)
 Engineer for
 2 Geo. V. c. 74, Sched. Form 7.

FORM 8.

CERTIFICATE OF ENGINEER.

(Rock-cutting or Blasting.)

To

Clerk of the of

I hereby certify that the rock-cutting and blasting provided for by my award made under *The Ditches and Watercourses Act*, and dated the day of , 19 , was let to for the sum of \$, and he has completed the work and is entitled to be paid that sum, and that my fees and charges (stating items) are \$.

Dated the day of , 19 .
 (Signature of Engineer.)
 Engineer for
 2 Geo. V. c. 74, Sched. Form 8.

11. INTERMENT OF THE DEAD.

CHAPTER 261.

An Act respecting Cemeteries and the Interment of the Dead.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

INTRODUCTORY.

- | | |
|---------------------|---|
| Short title. | 1. This Act may be cited as <i>The Cemetery Act</i> . 3-4 Geo. V. c. 56, s. 1. |
| Interpretation. | 2. In this Act, |
| "Cemetery." | (a) "Cemetery" shall mean and include any land which is set apart or used as a place for the interment of the dead or in which human bodies have been buried; |
| "Local Board." | (b) "Local Board" shall mean the local board of health of a municipality in which it is proposed to establish or in which there is a cemetery; |
| "Owner." | (c) "Owner" shall mean the person owning, controlling or managing a cemetery; |
| "Provincial Board." | (d) "Provincial Board" shall mean the Provincial Board of Health; |
| "Regulations." | (e) "Regulations" shall mean regulations made by the Provincial Board under the authority of this Act. 3-4 Geo. V. c. 56, s. 2. |

PART I.

PROVISIONS APPLICABLE TO ALL CEMETERIES.

ESTABLISHMENT AND ENLARGEMENT OF CEMETERIES.

Approval of Provincial Board.

3. No cemetery shall be established or enlarged until the approval of the Provincial Board has been applied for and obtained in the manner hereinafter provided. 3-4 Geo. V. c. 56, s. 3.

4. An application for such approval shall be made in writing to the local board, and the applicant shall submit therewith a detailed plan and description in duplicate of the land proposed to be acquired or used for cemetery purposes together with such other information as the Regulations may require. 3-4 Geo. V. c. 56, s. 4.

Application
and material.

5. The application and one of the duplicates of the plan and description of the land and all other material filed with the application shall be transmitted to the Provincial Board, together with a statement of the opinion of the local board thereon. 3-4 Geo. V. c. 56, s. 5.

Transmis-
sion to
Provincial
Board.

6.—(1) The approval of the Provincial Board shall be by order in writing signed by the chairman and secretary, and shall contain a sufficient description of the cemetery proposed to be established or of the land which is to be annexed to the existing cemetery.

Approval.

(2) The order may be registered in the proper registry or land titles office, and upon its registration the cemetery may be established or enlarged as the order may direct. 3-4 Geo. V. c. 56, s. 6.

Registra-
tion.

7. Any person who establishes a cemetery and uses it, or enlarges any cemetery, without the approval of the Provincial Board shall incur a penalty of not less than \$100 nor more than \$500. 3-4 Geo. V. c. 56, s. 7.

Penalty for
non-com-
pliance.

8. The expenses of the Provincial Board shall be paid by the applicant. 3-4 Geo. V. c. 56, s. 8.

Expenses
of Pro-
vincial
Board.

POWERS OF BOARDS AND OFFICERS.

9. The Provincial Board may make Regulations in the manner provided by *The Public Health Act* respecting cemeteries, and may impose penalties for the contravention thereof and such regulations may be general in their application or may upon the recommendation of any local board be varied as to any cemetery within its jurisdiction. 3-4 Geo. V. c. 56, s. 9.

Power to
make
regulations.
Rev. Stat.
c. 218.

10. The medical officer of health or sanitary inspector or any officer of the local board may at any time enter into and upon any cemetery within the limits of the municipality and examine and enquire into the condition of the cemetery and whether the provisions of this Act and of the Regulations are observed. 3-4 Geo. V. c. 56, s. 10.

Powers of
certain
officers.

POWERS AND DUTIES OF OWNERS.

11. All lots or plots in a cemetery when numbered and conveyed as burial sites or lots shall be indivisible, but may afterwards be held and owned in undivided shares. 3-4 Geo. V. c. 56, s. 11.

Lots to be
indivisible,
but may be
held in
undivided
shares.

No
registration.

Exemption
from
process.

12. When a lot has been sold for a burial site it shall not be necessary to register the conveyance, nor shall it be affected by any judgment, execution, mortgage or incumbrance. 3-4 Geo. V. c. 56, s. 12.

Repurchas-
ing lots.

13. The owner of a cemetery may repurchase any lot previously sold or conveyed. 3-4 Geo. V. c. 56, s. 13.

Owner
may accept
devises,
gifts, etc.

14.—(1) The owner may take and hold by grant, assignment, devise, bequest or otherwise any money or securities and apply the same in preserving, improving and embellishing the cemetery, upon the condition and in consideration of assuming and undertaking the duty and obligation of preserving and maintaining in a proper manner in perpetuity any particular lot, tomb, monument or enclosure in such cemetery or in any other cemetery or burying ground in the same municipality or in any other municipality in the same county or district; and any person may make such grant, assignment, devise or bequest upon such condition and for such consideration.

Taking lots
in cemetery
by grant
or devise.

(2) The owner may also take and hold by grant, assignment or devise from the owner thereof any lot in the cemetery for the purpose of maintaining the same in perpetuity or otherwise in the manner and subject to the provisions of the instrument of grant, assignment or devise.

May agree
to keep lots,
etc., in good
condition.

(3) The owner may agree to preserve and maintain in a proper manner in perpetuity the particular lot, tomb, monument or enclosure in any cemetery designated in such grant, assignment, devise, bequest or agreement.

Payment
over of
bequest.

(4) Personal representatives or trustees may pay over and transfer money or securities in their hands which they are authorized or directed to apply for or toward the purposes mentioned in this section.

Investment
of funds.

(5) For the purpose of securing the due performance of such agreement the owner may invest the money received under the agreement in the same manner as trustees are authorized to invest trust money and out of the income of such investment perform his obligations under the agreement. 3-4 Geo. V. c. 56, s. 14.

Power to
acquire
additional
lands, etc.

15.—(1) If additional land is required for the enlargement of a cemetery and the council of the municipality in which the land is situate by by-law declares that in the opinion of the council the owner should, for that purpose, have power to expropriate any adjacent land described in the by-law, and if the Provincial Board certifies that in its opinion the proposed enlargement is for the public advantage and convenience and ought to be permitted, the owner, upon registering the by-law and certificate in the proper registry or land titles office, shall, in respect of the land described in the by-law, possess

the powers conferred upon the council of a local municipality by *The Municipal Act*. Rev. Stat. c. 192.

(2) Where the owner not being a municipal corporation desires to proceed under this section proceedings for expropriation may be initiated by notice. 3-4 Geo. V. c. 56, s. 15. How proceedings to be instituted.

16. Subject to the provisions of this Act and to the Regulations the owner may make regulations for the laying out and selling lots and managing the cemetery, for regulating burials therein, the removal of bodies therefrom, the erection or removal of tombs, monuments, gravestones, vaults, copings, fences, hedges or other permanent improvements therein, the planting, placing and removal of trees, shrubs and plants in the grounds, and otherwise generally respecting the use of the grounds, and for the execution of conveyances of lots or plots in the cemetery. 3-4 Geo. V. c. 56, s. 16. Powers to make regulations.

17. The owner may borrow money for the purpose of making roads in the cemetery and for laying out and improving the same, and for that purpose may mortgage all his estate, right and interest in the cemetery; but nothing herein shall authorize the mortgagee or anyone claiming under him to use or deal with the cemetery in a manner inconsistent with the continued use of it as a cemetery or inconsistent with any provision in this Act for the preservation and protection of the same for cemetery purposes. 3-4 Geo. V. c. 56, s. 17. Power to borrow.

18.—(1) The owner of every cemetery shall Duty of owner.

(a) keep and maintain fences about the cemetery sufficient to prevent dogs, cattle or other animals from straying therein; Maintain fences.

(b) keep the cemetery and the buildings and fences thereof in good order and repair; Keeping in good order.

(c) see that all burials within the cemetery are conducted in a decent and orderly manner, and that quiet and good order are at all times maintained therein; Conduct of burials.

(2) When there is no person resident in the municipality in which a cemetery is situate in charge of it the cemetery shall be deemed non-resident land within the meaning of *The Noxious Weeds Act*. Weeds. Rev. Stat. c. 253.

(3) For every default in complying with subsection 1 the owner shall incur a penalty not exceeding \$10, and after conviction thereof shall incur a further penalty of \$5 for every day during which such default continues. 3-4 Geo. V. c. 56, s. 18. Penalty.

19. Every owner of a cemetery shall make all necessary sewers and drains in and about the cemetery for draining it and keeping it dry; and may whenever necessary connect any Sewers and drains.

such sewer or drain with an existing sewer with the consent in writing of the municipal corporation or other body or the person owning or controlling the highway, lane or other public communication, or the land of which any part is to be opened up for that purpose, doing as little damage as possible and restoring the same to as good condition as before the opening was made. 3-4 Geo. V. c. 56, s. 19.

No offensive matter, to be allowed into rivers, etc.

20.—(1) The owner of a cemetery shall not cause or suffer any offensive matter from the cemetery to be brought to or flow into any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place.

Penalty.

(2) For every contravention of subsection 1 the owner shall incur a penalty of not more than \$50, and in addition shall be liable for any damages caused thereby to any person having a right to use such water. 3-4 Geo. V. c. 56, s. 20.

Liability for damages.

Interments not to be within 15 feet of church walls, etc.

21.—(1) The owner of a cemetery shall not cause or suffer any dead body to be interred in a vault or otherwise under or within fifteen feet of the outer wall of any church, chapel or other building in the cemetery.

Penalty.

(2) For every contravention of subsection 1 the owner shall incur a penalty of not more than \$50. 3-4 Geo. V. c. 56, s. 21.

Owner's name to be recorded.

22.—(1) The owner of a cemetery shall not permit any burial therein until he has been registered with the Registrar-General, through the Division Registrar of the municipality in which such cemetery is situate, as the owner of the cemetery.

Penalty.

(2) For every contravention of subsection 1 the owner shall incur a penalty of not more than \$50. 3-4 Geo. V. c. 56, s. 22.

Default of owner.

23. Where the owner of a cemetery neglects to keep it in good order or to erect or maintain fences as required by this Act, the Provincial Board may give notice to him to do so, specifying in the notice what he is required to do, and if such owner does not within one month after the notice comply with the requirements of it the Provincial Board may cause what should have been done by him to be done at his expense, and may levy the cost thereof by distress and sale of the owner's goods and chattels, or may maintain an action for the recovery thereof. 3-4 Geo. V. c. 56, s. 23.

Absence or inability of owner.

24. Where the owner of a cemetery cannot be found or is unknown, or is unable to maintain it, the council of the local municipality in which the cemetery is situate may undertake the duty of maintaining it, and where a council so undertakes the corporation shall for the purposes of this Act be deemed to be the owner of the cemetery. 3-4 Geo. V. c. 56, s. 24.

25. Where the owner of a cemetery is an incorporated company or a municipal corporation it shall provide graves for strangers and for the indigent free of charge, but an incorporated company shall not be bound to do so in the case of an indigent except upon the certificate of a member of the council of the municipality or of a minister or clergyman that the relatives of the deceased are poor and cannot afford to purchase a lot in the cemetery. 3-4 Geo. V. c. 56, s. 25.

Graves to be provided for strangers and indigents free of charge.

SHAREHOLDERS IN CEMETERY COMPANIES.

26. The owner of a lot containing not less than one hundred superficial feet, who has paid not less than twenty-five per centum of the price of the lot, shall be deemed a shareholder in any company which is the owner of the cemetery; and every such lot shall be deemed a share in the company. 3-4 Geo. V. c. 56, s. 26.

Lots to contain not less than 100 superficial feet.

INTERMENT AND REMOVAL OF REMAINS.

27.—(1) The dead body of a person who has died of small-pox, scarlet fever, measles, diphtheria, croup, bubonic plague, cholera, epidemic cerebro spinal meningitis, or epidemic anterior poliomyelitis shall not be disinterred, except for the purpose of transportation or re-interment and in conformity with the Regulations.

Disinterment in case of certain contagious diseases.

(2) No such dead body shall be transported by railway, steam or other vessel, or other public conveyance unless prepared in the manner provided by the Regulations, and enclosed in a hermetically sealed coffin which shall not be subsequently opened. 3-4 Geo. V. c. 56, s. 27.

Transport of dead body by railway, etc.

28.—(1) No dead body shall at any time be disinterred or removed from any grave, place of burial or vault, other than a receiving vault, except under and subject to the Regulations and under the personal supervision and direction of the medical officer of health.

Disinterment of dead body.

(2) The certificate of the medical officer of health that the provisions of this Act and of the Regulations have been complied with shall be affixed to the coffin or other receptacle containing the dead body before its removal from the cemetery.

Certificate of Medical Officer of Health.

(3) Every person who disinters or removes from any such grave, place of burial or vault any dead body except as hereinbefore provided, and every person who conveys or transports any such body in contravention of the provisions of this Act shall incur a penalty of \$100. 3-4 Geo. V. c. 56, s. 28.

Penalty.

29. Every human body interred in a cemetery, which is not placed or buried in a private vault so constructed as to prevent the escape of noxious or unhealthy gases therefrom, shall be buried so that the outside cover or shell of the coffin

Precautions to prevent escape of noxious or unhealthy gases.

or other receptacle shall be at least four feet beneath the natural surface of the ground, and the coffin or other receptacle shall be immediately covered with at least four feet of earth. 3-4 Geo. V. c. 56, s. 29.

Order for
disinter-
ment by
court.

30.—(1) Notwithstanding anything herein contained, where it is deemed necessary to disinter any dead body for the purpose of a judicial proceeding, the court in which the proceeding is pending may direct its disinterment under and subject to such conditions as to reinterment as may be deemed proper.

Order
by the
Attorney
General.

(2) Where the Attorney General deems it expedient for the purpose of an enquiry as to the cause of death or for the purpose of any criminal proceeding that a body should be disinterred he may exercise the powers mentioned in subsection 1. 3-4 Geo. V. c. 56, s. 30.

Disinter-
ment for
inquest.

31. Nothing in this Act shall prevent the disinterment of a dead body where a coroner has issued his warrant for the holding of an inquest thereon. 3-4 Geo. V. c. 56, s. 31.

CLOSING CEMETERIES.

Closing
cemetery
for defec-
tive drain-
age, etc.

32. Where the Provincial Board reports in writing that a cemetery is so situated that, owing to the want of proper facilities for drainage or from any other cause, the same has become or is likely to become dangerous to the health of the inhabitants of the locality the Lieutenant-Governor in Council may by proclamation declare that the cemetery shall be closed and that no further interments shall take place therein. 3-4 Geo. V. c. 56, s. 32.

33.—(1) Whenever

Removal
of bodies
and re-in-
terment in
another
cemetery.

(a) a cemetery has been closed by proclamation of the Lieutenant-Governor in Council as hereinbefore provided; or

(b) the owner of a cemetery establishes to the satisfaction of the Lieutenant-Governor in Council that it is expedient that the bodies therein should be removed therefrom,

the Lieutenant-Governor in Council may direct such removal in the manner and according to the procedure provided by this section.

Notice of
application.

(2) Before the application for an order under clause *b* of subsection 1 is granted the owner shall give notice of the application once a week for four successive weeks in the *Ontario Gazette* and in a newspaper published in the local municipality in which the cemetery is situate, or if there is no such newspaper then in a newspaper published in the county or district town, and by registered letter addressed

to every plot owner in the cemetery whose address is known or can be ascertained by the owner.

(3) After the making of the order the owner shall forth-^{Notice of order to be published.} with give notice thereof by publication once a week for at least two successive weeks in the *Ontario Gazette* and in a newspaper published in the local municipality in which the cemetery is situate, or if there is no such newspaper then in a newspaper in the county or district town, and that he will, at the expiration of thirty days from the publication of the last of such notices, disinter and remove such bodies and reinter them in the place described in the notice which shall be in some cemetery in the same or in an adjacent municipality.

(4) At the expiration of the time fixed by such notice ^{When any} bodies not removed by the relatives or friends of the deceased ^{may be removed.} may be removed by the owner at his own expense, and when removed may be reinterred by him in the cemetery mentioned in the notice.

(5) The provisions of sections 27, 28 and 29 shall apply to ^{When ss. 28, 29, and 30 to apply.} such disinterment, removal and reinterment.

(6) The owner shall remove all monuments or headstones ^{Removal and re-erection of monuments, etc.} or other stones marking the graves in which bodies so removed are buried, and shall re-erect or replace them in the cemetery to which such bodies are removed.

(7) If and when the owner satisfies a Judge of the County or District Court of the county or district that he has removed from the cemetery and reinterred as hereinbefore provided all the remains which with the exercise of reasonable diligence he has been able to find buried in such cemetery, the Judge may certify that the provisions of this section have been complied with and such certificate may be registered in the proper registry or land titles office on the production thereof. ^{Certificate of county or district judge as to removal and registration of.}

(8) The certificate when so registered shall be conclusive ^{Effect of certificate.} evidence that the owner has removed from the land therein described all the remains there buried; and thereafter such land shall not be deemed a cemetery within the meaning of this Act but may be sold, leased or otherwise disposed of and dealt with by the owner as if it had not been a cemetery.

3-4 Geo. V. c. 56, s. 33.

MISCONDUCT IN CEMETERY.

34.—(1) No person shall ^{Prohibitions.}

(a) wilfully destroy, mutilate, deface, injure or remove ^{Injuring property.} any tomb, monument, gravestone or other structure placed in a cemetery, or any fence railing or other work for the protection or ornament of a cemetery, or of any such tomb, monument, gravestone or other structure or of any lot within a cemetery; or

- Idem.* (b) wilfully destroy, cut, break, or injure any tree, shrub or plant in a cemetery; or wilfully injure, destroy or deface any building or structure or any road, walk or other works in the cemetery;
- Playing games, etc.
Discharging firearms. (c) play at any game or sport in a cemetery; or
(d) discharge firearms in a cemetery except at a military funeral; or
- Disturbing funerals. (e) wilfully and unlawfully disturb persons assembled for the purpose of burying a body therein; or
- Committing nuisance. (f) commit a nuisance in a cemetery.
- Penalty. (2) Every person who contravenes the provisions of subsection 1 shall incur a penalty of not less than \$4 nor more than \$40.
- Animals. (3) No person shall bring any dog, goat, or cattle within the limits of a cemetery, and every person so doing shall incur a penalty of not more than \$20.
- Liability to action. (4) Every person who contravenes subsection 1 or subsection 3 shall also be liable in an action in the name of the owner of such cemetery or of a burial plot upon which such damage is done or other unlawful act committed to pay all damages occasioned by his unlawful act, and when recovered the same shall be applied under the direction of the owner of the cemetery for the reparation and reconstruction of the property destroyed. . 3-4 Geo. V. c. 56, s. 34.

RECOVERY OF PENALTIES.

Recovery of penalties.
Rev. Stat. c. 90.

35. The penalties provided by this Part shall be recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 56, s. 35.

PART II.

POWERS OF MUNICIPAL CORPORATIONS.

By-laws.

36.—(1) Subject to the provisions of Part I and to the Regulations the council of every local municipality and the trustees of every police village may pass by-laws for

For making annual grants, etc.

(a) making an annual or other grant of money to the owner of a cemetery situate in the municipality or the police village, or in any adjacent municipality or police village;

Regulating funerals, etc.
For acquiring land.

(b) regulating funerals and the interment of the dead;
(c) acquiring land in the municipality or in the police village or in an adjacent township for a cemetery, or for the enlargement of an existing cemetery of which the corporation is the owner;

(d) for selling or leasing portions of such land for the purpose of interment in family vaults or otherwise, and fixing the terms on which the same shall be conveyed or leased and held; For selling plots, etc.

(e) for the maintenance, management, regulation and control of any cemetery which is owned by the corporation or the trustees whether situate within or without the municipality or police village. For maintenance, regulation and control of cemetery.
3-4 Geo. V. c. 56, s. 36.

37. The council of every urban municipality and the trustees of every police village may pass by-laws for prohibiting the interment of the dead within the municipality or police village. By-laws prohibiting the interment of the dead.
3-4 Geo. V. c. 56, s. 37.

38. The owner of any existing cemetery or of any land held for cemetery purposes may sell or transfer the same to any municipal corporation, or the trustees of any police village, and if the land has not been used for burial purposes the corporation may sell the same and acquire other land in lieu of it. Power to sell to municipal corporation.
3-4 Geo. V. c. 56, s. 38.

PART III.

TRUSTEES OF CEMETERIES.

39.—(1) Where the inhabitants of a township or part of a township to the number of ten or more desire to take a conveyance of land for a cemetery not for the exclusive use of any particular religious body, they may appoint trustees to whom and their successors, appointed in the manner provided by the conveyance the land may be conveyed. When lands for cemetery may be vested in trustees.

(2) Such trustees and their successors in perpetual succession, by the name expressed in the conveyance, may take, hold and possess the land in trust for the uses and purposes mentioned therein and may maintain and defend actions for the protection thereof and of their property therein. Trustees to hold in perpetual succession.

(3) There shall not be held in trust under any such conveyance more than ten acres. Limitation to 10 acres.
3-4 Geo. V. c. 56, s. 39.

40. Where land has been set apart or sold for cemetery purposes and used as a cemetery and no provision has been made for the appointment of trustees of such cemetery, or where there is no person upon whom the duty of taking care of and maintaining a cemetery rests, the owners of plots therein may elect trustees in the manner hereinafter provided. Election of trustees when no other provision made.
3-4 Geo. V. c. 56, s. 40.

41.—(1) Three or more of such owners may call a meeting for the purpose of electing trustees by notice, Form 1, to be published once a week for two successive weeks in a news- For calling meeting.

paper published in the local municipality in which the cemetery is situate, or if no newspaper is published in the local municipality then in the newspaper published nearest to the local municipality.

Date of meeting.

(2) The date of the meeting shall be not less than two weeks from the date of the last publication of such notice. 3-4 Geo. V. c. 56, s. 41.

Chairman and secretary.

42.—(1) At the time and place named in the notice the plot owners present shall elect from among themselves some person to act as chairman, and shall also elect some person to act as secretary for the meeting.

Three trustees to be elected.

(2) After the election of the chairman and secretary the members present shall elect from among the plot owners three persons to be trustees of the cemetery. 3-4 Geo. V. c. 56, s. 42.

Certificate of election.

43.—(1) After the election of the trustees the chairman and secretary shall certify as to such election, Form 2.

Registration and filing of certificate.

Rev. Stat. c. 124.

(2) The certificate shall be in triplicate, and one of such triplicates with an affidavit of execution thereof in the form prescribed by *The Registry Act* shall be registered in the proper registry or land titles office, and one of such triplicates shall be filed with the clerk of the local municipality in which the cemetery is situate, and one of such triplicates shall be delivered to the trustees. 3-4 Geo. V. c. 56, s. 43.

Effect of registration.

44.—(1) Upon the registration of the certificate the cemetery shall be vested in the trustees so appointed and their successors subject to the provisions of any deed or other instrument setting it apart for cemetery purposes or conveying the same or any plot therein for cemetery purposes, and subject to the rights of any person who may have theretofore purchased plots in such cemetery and to the provisions of this Act.

Trustees deemed owners.

(2) The trustees elected and their successors shall be deemed to be the owners of the cemetery within the meaning of this Act. 3-4 Geo. V. c. 56, s. 44.

Vacancies among trustees.

45. Whenever a vacancy occurs in the office of trustee, whether originally elected or elected to fill a vacancy, his successor shall be elected, and his election shall be certified and the certificate shall be registered in the manner hereinbefore provided in the case of a first election of trustees. 3-4 Geo. V. c. 56, s. 45.

Trustees and companies holding adjoining cemeteries may appoint one board of trustees.

46.—(1) Where adjoining cemeteries are owned by separate boards of trustees or companies they may appoint trustees to whom and to their successors, appointed in the manner provided by the conveyance, all or any of the land vested in the appointing bodies may be conveyed, and the same may

be conveyed accordingly and the trustees appointed by such conveyance and their successors in perpetual succession, by the name expressed in the conveyance, may take, hold and possess the land thereby or thereafter conveyed to them as a site for a cemetery or for the enlargement of an existing cemetery, and maintain and defend actions for the protection thereof and of their property therein.

(2) Instead of appointing trustees as provided by subsection 1 the cemeteries may be conveyed to and vested in the company or in one of the companies upon such trusts, if any, as the appointing bodies may deem proper. 3-4 Geo. V. c. 56, s. 46.

And convey cemeteries to board.

SCHEDULE.

FORM 1.

(Section 41.)

Take notice that a meeting will be held at (naming a place in the local municipality in which the cemetery is situate) at in the of on the day of 19 , at the hour of o'clock in the noon, for the purpose of electing trustees for the cemetery (here insert description of land sufficient for the purpose of registration and name or designation, if any, of the cemetery). The owners of plots are requested to attend the meeting.

Dated at , 19 , the day of

A.B., C.D., E.F.,
Plot Owners.

3-4 Geo. V. Schedule, Form 1.

FORM 2.

(Section 43.)

We hereby certify that at a meeting of the owners of plots in the cemetery, (here insert description of land sufficient for the purpose of registration and the name or designation, if any, of the cemetery), of , held pursuant to the provisions of The Cemetery Act, at on the day of 19 , the following persons were elected trustees of the cemetery:

A.B.,	of
C.D.,	of
E.F.,	of

(insert place of residence and occupation of each trustee.)

Witness: Chairman.
Secretary.

12. PROTECTION OF GAME, &c.

CHAPTER 262.

An Act respecting the Game, Fur-bearing Animals and Fisheries of Ontario.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PART I.

INTERPRETATION AND GENERAL PROVISIONS.

- | | |
|---------------------|--|
| Short title. | 1. This Act may be cited as <i>The Ontario Game and Fisheries Act</i> . 3-4 Geo. V. c. 69, s. 1. |
| Application of Act. | 2. This Act and the Regulations shall apply to all game hunting, shooting, fish, fisheries, fishing and all rights and matters relating thereto. 3-4 Geo. V. c. 69, s. 2. |
| Interpretation. | 3. In this Act and in the Regulations: |
| "Angling." | (a) "Angling" shall mean the taking of fish with hook and line held in the hand, or with hook and line and rod, the latter held in the hand, but shall not include set lines; |
| "Bass." | (b) "Bass" shall mean and include the species ordinarily known and described as "large-mouthed bass" and "small-mouthed bass;" |
| "Close season." | (c) "Close season" shall mean the period during which any species of game or fish is protected by this Act or the Regulations or by the laws and regulations of the Dominion of Canada; |
| "Fishery." | (d) "Fishery" shall mean and include the stretch of water, locality, premises, place or station described in the regulations, or in a lease or license, in or from which fish may be taken, and all nets, plant and appliances used in connection therewith; |
| "Game." | (e) "Game" shall mean and include all animals and birds protected by this Act or by the Regulations and the heads, skins and every part of such animals and birds; |

- (f) "Lease" shall mean an instrument issued under the "Lease." authority of this Act and of the Regulations conferring upon the lessee, for purposes of fishing, the rights therein mentioned, subject to the conditions, restrictions and limitations therein and in this Act and the Regulations contained;
- (g) "License" shall mean an instrument issued under "License." the authority of this Act and of the Regulations conferring upon the licensee the right to do the things therein mentioned, subject to such conditions, restrictions and limitations as are therein and in this Act and the Regulations contained; but no license shall be deemed to be or to operate as a demise or lease;
- (h) "Minister" shall mean the member of the Executive "Minister." Council for the time being charged with the administration of this Act;
- (i) "Northern District" shall mean that part of On-^{"Northern District."}tario lying northerly and westerly of the lines of the Canadian Pacific Railway Company described as follows: Commencing where the main line of the railway from Montreal to Toronto enters Ontario, thence following the main line along the southerly extension thereof, now under construction, thence following the line of railway to the City of Guelph, and thence following the line of the Guelph and Goderich Railway Company to the Town of Goderich;
- (j) "Open season" shall mean the period during which^{"Open season."} any species of game or fish is permitted to be hunted, taken, killed, sold or possessed by this Act or the Regulations, or by the laws and regulations of the Dominion of Canada;
- (k) "Overseer" shall mean and include a game and^{"Overseer."} fishery overseer and any officer or person authorized to assist in the enforcement of this Act and the Regulations;
- (l) "Regulations" shall mean the regulations made by^{"Regulations."} the Lieutenant-Governor in Council under the authority of this Act;
- (m) "Southern District" shall mean that part of On-^{"Southern District."}tario lying to the south of the Northern District;
- (n) "Superintendent" shall mean the chief officer in^{"Superintendent."} charge of the Game and Fisheries Branch of the Public Service. 3-4 Geo. V. c. 69, s. 3.

4.—(1) The Lieutenant-Governor in Council may make^{Regulations.} regulations:

Custody of
archives and
records.

(a) for making, keeping, searching for, obtaining and taking over all archives, records, books, regulations, orders in council, documents and accounts in the custody of the Government of the Dominion of Canada or of the Government of Ontario, or otherwise existing, in any way relating to the game or fisheries of Ontario;

Records,
etc., and
returns by
licensees
and others.

(b) providing that every person holding any lease or license issued under this Act, and all fish companies and fish dealers shall keep such records and make such reports and returns as may be prescribed;

Other pro-
visions.

(c) containing such further and other provisions as may be deemed necessary or desirable for the administration and enforcement of this Act and of the Regulations.

Promulgation.

(2) The Regulations shall come into force upon publication thereof in the *Ontario Gazette*, or upon such later date as may be therein stated. 3-4 Geo. V. c. 69, s. 4.

Administra-
tion.

5.—(1) The administration of this Act and of all matters relating to fish and game shall be under the control and direction of the Minister and shall constitute a branch of the Public Service to be known as the Game and Fisheries Branch.

Remuneration
of officers,
etc.

(2) The remuneration of all officers of the Game and Fisheries Branch and of all other persons employed to perform any duty in connection therewith, or to assist in the enforcement of this Act and of the Regulations, and all expenses incident to the due enforcement thereof, shall be paid out of such money as may be appropriated for that purpose by this Legislature. 3-4 Geo. V. c. 69, s. 5.

Exclusive
right to fish
in navigable
waters only
by express
grant thereof.

6. The grant by patent, issued before or after the passing of this Act, of the bed of any navigable water or of any lake or river shall not, unless such exclusive right of fishing is expressly granted by such patent, be deemed to carry or include the exclusive right of fishing in the water which covers or flows over the land so granted. 3-4 Geo. V. c. 69, s. 6.

Payment of
fees, fines,
etc.

7. Save as otherwise provided by this Act all rentals, license fees, fines, penalties, proceeds of sales of articles confiscated, and other receipts, fees and revenue under this Act or the Regulations, or under any lease, license or other instrument thereby authorized, shall be payable to the Treasurer of Ontario. 3-4 Geo. V. c. 69, s. 7.

PART II.

GAME.

Regulations.

8. The Lieutenant-Governor in Council may make regulations

- (a) prohibiting for a period of not more than three years at a time the hunting, shooting and sale in Ontario or any part of it of any non-migratory game which may appear to require further protection than is afforded by this Act; Protection of non-migratory birds.
- (b) prohibiting the hunting, shooting or sale of any migratory game which he may deem to be at any time in danger of extinction, for the same period and in the same manner as the same is at any time forbidden in any two or more of the United States of America, one of such states being New York, Pennsylvania, or Michigan; Protection of migratory birds in certain cases.
- (c) varying the close season for that part of the territory of Ontario lying north and west of French River, Lake Nipissing and Mattawa River or any part of such territory; Varying close seasons in certain outlying districts.
- (d) prohibiting or regulating the possession of guns, rifles or other firearms in any part of Ontario in which it may appear that it is desirable to take special means to prevent violations of this Act; Forbidding the possession of guns.
- (e) prohibiting persons assisting hunters or hunting parties from acting as guides except under the authority of a license or permit; Licensing guides.
- (f) requiring non-resident holders of hunting licenses to employ licensed guides while hunting deer, moose or caribou; Employment of licensed guides.
- (g) designating certain parts of Ontario in which it shall be unlawful to hunt, take, pursue, kill, wound or destroy any game bird or animal at any time of the year, subject to such exception in favour of the residents or settlers as may be deemed reasonable; Crown game preserves.
- (h) for encouraging the propagation of game by authorizing any person owning game and having the same on his property to sell or dispose of it at any time for propagation or stocking purposes; Sale for breeding purposes.

Exempting
Indians or
farmers
from pro-
visions of
Act.

- (i) exempting Indians or actual *bona fide* settlers in the northern and northwesterly or other sparsely settled portions of Ontario, whether organized or unorganized, from any of the provisions of this Act which may be specified in the Order in Council; but not so as to authorize a settler to hunt, take, kill or have in his possession any moose, reindeer or caribou except in any year when the same may be lawfully killed according to the provisions of this Act. 3-4 Geo. V. c. 69, s. 8.

Non-residents.

9. No person not a British subject and no person not residing and domiciled in Ontario shall hunt, take, kill, wound or destroy any game, or carry or use any gun or rifle for hunting purposes except under the authority of a license. 3-4 Geo. V. c. 69, s. 9.

Open Season.

Open season.

10.—(1) No person shall hunt, take, kill or destroy

Deer.

- (a) any deer, except from the 1st day of November to the 15th day of November, both days inclusive;

Moose, rein-
deer, and
caribou
south of
C.P.R.

- (b) any moose, reindeer, or caribou in that part of Ontario lying south of the main line of the Canadian Pacific Railway in the Town of Mattawa to the City of Port Arthur, except from the 1st day of November to the 15th day of November, both days inclusive;

Moose, rein-
deer and
caribou
north of
C.P.R.

- (c) any moose, reindeer, or caribou throughout that part of Ontario lying north of the main line of the Canadian Pacific Railway from Mattawa to the Manitoba boundary and that part of Ontario lying south of the Canadian Pacific Railway from the City of Port Arthur to the Manitoba boundary, except from the 16th day of October to the 15th day of November, both days inclusive;

Grouse, etc.

- (d) any grouse, pheasants, prairie fowl or partridge, except from the 15th day of October to the 15th day of November, both days inclusive; but no persons shall take or kill more than ten partridges in any one day;

Woodcock.

- (e) any woodcock, except from the 1st day of October to the 15th day of November, both days inclusive;

Quail and
wild turkeys,
black and
grey squirrels.

- (f) any quail or wild turkey, black or grey squirrel, except from the 15th day of November to the 1st

day of December in any year, both days inclusive;

- (g) any swan or goose, except from the 15th day of September to the 15th day of April in the following year, both days inclusive; Swans and geese.
- (h) duck of any kind or any other waterfowl, snipe, rail, plover or any other bird known as a shore bird or wader in the Northern District, except from the 1st day of September to the 15th day of December in any year, both days inclusive; Ducks and other waterfowl. Northern District.
- (i) duck of any kind or any other waterfowl, snipe, rail, plover or any other bird known as a shore bird or wader in the Southern District, except from the 15th day of September to the 15th day of December in any year, both days inclusive; Idem. Southern District.
- (j) capercailzie, before the 15th day of September, 1915, nor thereafter except from the 15th day of September to the 15th day of December, both days inclusive; Capercailzie.
- (k) hares, except from the 1st day of October to the 15th day of December, both days inclusive, and except that between the 15th day of December and the 31st day of December in any year, both days inclusive, the wood-hare or cotton-tail rabbit may be taken, killed or destroyed by means of snares, ferrets or any other means than shooting. Hares.

(2) Notwithstanding anything in this Act a wood-hare or cotton-tail rabbit may be taken, killed or destroyed in any manner by the owner, occupant or lessee of any land upon which it causes actual damage to trees or shrubs, or by any member of the family of such owner, occupant or lessee, or by any person holding a written license or permit from such owner, occupant or lessee; and any of these animals killed under this subsection shall be handed over to the nearest officer of the Game and Fisheries Branch for distribution to charitable institutions. Cotton-tail rabbits.

(3) Notwithstanding anything in this Act a person who puts or breeds or imports deer upon his own land for the purpose of breeding and preserving the same, and his licensee, may hunt, take or kill any such deer from the 1st day of October to the 15th day of November, both days inclusive; but the onus of proof that the deer were so put or bred shall rest on the person hunting or killing the same. 3-4 Geo. V. c. 69, s. 10. Special provision as to shooting deer put or bred by any person on his lands.

Beaver, Otter, Muskrats, etc.

11.—(1) No beaver or otter shall be hunted, taken or killed or had in possession by any person before the 1st day Beaver and otter.

of November, 1915, and thereafter between the 1st day of April and the 1st day of November in any year, nor shall any trap, snare, gin or other contrivance be set for them during such periods.

Muskrat.

(2) No muskrat shall be hunted, taken or killed or had in possession of any person between the 1st day of May and the 1st day of December, except as provided by the next succeeding subsection, nor shall any trap, snare, gin or other contrivance be set for it during such period; and any such trap, snare, gin or other contrivance so set may be destroyed by any person without his thereby incurring any liability therefor; and this subsection shall apply to Indians in respect of private or leased land.

In certain districts.

(3) The close season with respect to muskrat in the electoral districts of Port Arthur, Fort William, Rainy River and Kenora shall be from the 1st day of May to the 1st day of March in the year following.

Muskrat houses, etc.

(4) No muskrat shall be shot during the month of April, or speared at any time; nor shall any muskrat house be cut, speared, broken or destroyed at any time.

When destruction of muskrats lawful.

(5) Nothing in this section shall apply to any person destroying any of the animals in defence or preservation of his property, or prevent the destruction of muskrats by any means, at any time, in the vicinity of dams or drainage embankments where there is a probability of injury being caused by them to such dams or drainage embankments.

Onus of proof.

(6) The onus of proving the justification under the next preceding subsection shall be on the person destroying any such animals.

Mink.

(7) No mink shall be hunted, taken or killed or had in possession of any person between the 1st day of May and the 1st day of November following.

Beaver doing damage.

(8) The Superintendent may at any time by order in writing direct the taking or killing of beaver by an overseer or other officer named in the order in any designated locality in Ontario in which, in the opinion of the Superintendent, beaver are causing damage to a highway or to private property, but all beaver so taken or killed shall be duly accounted for and handed over to the Superintendent.
3-4 Geo. V. c. 69, s. 11.

*Sunday.***Hunting on Lord's Day.**

12. No person shall on the Lord's day hunt, take, kill or destroy any game, or use any gun or other engine for that purpose. 3-4 Geo. V. c. 69, s. 12.

Deer.

13.—(1) No person shall hunt, take, kill, wound or destroy any deer, moose, reindeer or caribou except under the authority of a license.
License necessary for hunting deer.

(2) No person shall at any time hunt, kill or take any cow moose, or any moose, reindeer or caribou under the age of one year.
Cow moose, fawns, etc., which may be killed.

(3) No person shall during any one year or season kill or take more than one deer, one bull moose, or one bull reindeer or caribou; but this shall not apply to deer which are the private property of any person and which have been killed or taken by him or by his direction or with his consent in or upon his own land.
Number of deer, etc., which may be killed.

(4) Two or more persons hunting together and holding licenses may kill an aggregate of not more than one deer for each member of the party.
Aggregate kill.

(5) No owner of any dog, known by the owner to be accustomed to pursue deer, shall permit such dog to run at large during the close season for deer in any locality where deer are usually found.
Restraint of dogs.

(6) Any person harbouring or claiming to be the owner of such hound or dog shall be deemed to be the owner thereof; and any dog found running deer during the close season shall be deemed to be at large with the permission of the owner and may be killed on sight by any person, and he shall not be liable to any penalty or damage therefor.
Idem.
 3-4 Geo. V. c. 69, s. 13.

Water Fowl.

14.—(1) No wild duck, goose or other water fowl shall be hunted, taken or killed from a sail boat, yacht or launch propelled by steam or other power.
Hunting ducks, etc., from sail-boats.

(2) No swivel gun, or gun of any kind of a larger bore or gauge than 8, and no contrivance for taking or killing wild swans, geese or ducks, known as sunken punts or batteries, shall be used at any time.
Illegal contrivances.

(3) No blinds or decoys for use in hunting duck or other water fowl shall be placed at a greater distance than two hundred yards from the shore or a natural rush bed thick enough to conceal a boat, or from a water line bounding private property, and all decoys shall be removed from the water during the hours in which shooting is prohibited.
Blinds or decoys.
 3-4 Geo. V. c. 69, s. 14.

Poisons, Traps and Contrivances.

15.—(1) No person shall kill or take any game by the use of poison, or a poisonous substance, or expose poison,
Poisons, use of prohibited.

poisoned bait or other poisoned substance in any place or locality to which any game or any dog or cattle usually has access.

Trapping,
snaring, etc.

(2) None of the game animals and game birds, except those mentioned in section 11, shall be trapped or taken by means of traps, nets snares, gins, baited lines or other similar contrivances, nor shall such traps, nets, snares, gins, baited lines or contrivances be set for them or any of them at any time; and if so set they may be destroyed by any person without incurring any liability for so doing. 3-4 Geo. V. c. 69, s. 15.

Shooting,
at night.

16. No person shall discharge any gun or other fire-arm at any game between sunset and sunrise. 3-4 Geo. V. c. 69, s. 16.

Shooting for Hire Forbidden.

Hired
hunters.

17. No person shall for hire, gain or reward or hope thereof hunt, kill or shoot any game, or employ, hire or for valuable consideration induce any other person so to do; but this shall not apply to the *bona fide* employment of any person as guide to accompany a person lawfully hunting or shooting. 3-4 Geo. V. c. 69, s. 17.

Eggs.

Eggs not to
be taken.

18. No eggs of any game bird shall be taken, destroyed or had in possession by any person at any time. 3-4 Geo. V. c. 69, s. 18.

Masks and Disguises.

Masked or
armed per-
sons in
neighbourhood
of preserves.

19. Any person being masked or disguised and carrying or having in his possession any gun or other fire-arm near any preserve or shooting ground or, in close season, near any place where game is usually found shall be guilty of an offence against this Act. 3-4 Geo. V. c. 69, s. 19.

Automatic Guns.

Automatic
guns
prohibited.

20. Subject to the Regulations, no gun of the description known as "automatic" in which the recoil is utilized to reload the gun shall be used in the killing of game. 3-4 Geo. V. c. 69, s. 20.

Certain
employees
not to carry
fire arms.

21.—(1) No person employed in connection with the construction of any railway or public work shall carry or have in possession in the vicinity of such railway or public work, any gun or other fire-arm except as may be authorized by special license.

Nature of
license to
do so.

(2) The special license may be subject to such terms as the Minister may direct, and the ordinary hunting license provided for in this Act shall not be deemed to be a license under this section. 3-4 Geo. V. c. 69, s. 21.

Private Preserves—Propagation for Stocking Purposes.

22.—(1) Where a person has put or bred any kind of game upon his own land for the purpose of breeding and preserving the same no person knowing it to be such game shall hunt, shoot, kill or destroy it without the consent in writing of the owner of the land. Protection of private preserves.

(2) This section shall not prevent any person from shooting, hunting, taking or killing upon his own land, or upon any land over which he has a right to shoot or hunt, any game which he does not know or has not reason to believe had been so put or bred by some other person upon his own land. 3-4 Geo. V. c. 69, s. 22. Innocent contravention.

Trespass in Pursuit of Game.

23.—(1) No person shall at any time enter with any sporting implements in his possession, or permit his dog to enter, into any growing or standing grain without the permission of the owner, and no person shall at any time hunt, shoot or with any sporting implement in his possession go upon any enclosed land of another after having had notice not to hunt or shoot thereon. Entry on grain crops. Entering on lands after notice not to do so.

(2) Every person who contravenes this section shall be guilty of an offence against this Act. Penalty.

(3) An owner or occupant of land may give such notice Notice to trespassers, how given.

(a) verbally or in writing;

(b) by maintaining on or near the boundary of the land intended to be protected, or upon or near the shores of any water covering the same or any part thereof, sign boards to the number of two to each forty acres, at least one foot square, containing a notice in the following form or to the like effect: "Hunting or shooting forbidden."

(4) Any person who, without authority, puts up or causes to be put up any such notice on any land of which he is not the owner, or to the possession of which he is not entitled, or who tears down, removes, injures, defaces or interferes with any notice lawfully put up shall be guilty of an offence against this Act. Unauthorized putting up or interfering with notices illegal.

(5) Nothing in this section shall limit or in any way affect the remedy at common law of any such owner or occupant for trespass. Common law rights preserved.

(6) For the purposes of this section land the boundary line or any part of the boundary line of which passes through a marsh or swamp, or any land covered with water, or land without sufficient trees or obstructions to prevent any post hereinafter mentioned being clearly visible from the Marsh lands.

nearest post on either side thereof, shall so far as respects that part of the boundary line which so passes be deemed to be wholly enclosed within the meaning of this Act if posts are maintained along such part at distances which will permit of each being clearly visible from the next post. 3-4 Geo. V. c. 69, s. 23.

PART III.

FISH.

Government
regulations.

24.—(1) The Lieutenant-Governor in Council may make regulations—

Forbidding
fishing
except under
license.

(a) prohibiting fishing except under the authority of a license issued on the terms and conditions prescribed by the Regulations;

Wasteful and
destructive
fishing.

(b) preventing the destruction and improper, wasteful or excessive taking of fish;

Number and
weight of
fish.

(c) prescribing the number, size and weight of any species of fish that may be caught, possessed, purchased or sold;

Frogs.

(d) restricting the taking of frogs and setting apart any suitable Provincial waters for the cultivation and propagation of frogs.

Licenses for
non-residents.

(2) Except under the authority of a license, no person not residing and domiciled in Ontario shall angle in Provincial waters. 3-4 Geo. V. c. 69, s. 24.

Sturgeon.

25. Except under the authority of a license, no sturgeon shall be caught, taken or killed by any means. 3-4 Geo. V. c. 69, s. 25.

Taking for
breeding
purposes,
etc.

26. Except as authorized by special license, no fish or spawn shall be taken in any manner or at any time from Provincial waters for the purpose of stocking, artificial breeding or for scientific purposes. 3-4 Geo. V. c. 69, s. 26.

Regulations
as to
Nepigon
waters.

27.—(1) Except under the authority of a license, no one shall fish in the waters of Lake Nepigon or the River Nepigon in the District of Thunder Bay or in any tributaries of such lake or river.

Indian and
other guides.

(2) This section and the conditions applicable to licenses authorizing such fishing shall apply to Indians as well as to all other guides, boatmen, canoe men, camp assistants or helpers of any kind of a fishing party or person holding any such license. 3-4 Geo. V. c. 69, s. 27.

Provisions
as to setting
apart of
waters for
propagation
of fish.

28. The Superintendent may authorize to be set apart and to be leased any waters for the natural or artificial propagation of fish; and any person who wilfully destroys or injures any place so set apart or used, without the written

permission of an overseer or of the lessee, or uses therein a fishing light or other like implement for fishing, or fishes therein during the period for which the waters are so set apart shall be guilty of an offence against this Act. 3-4 Geo. V. c. 69, s. 28.

29.—(1) No person shall without the permission of the owner or lessee fish or employ or induce any other person to fish or assist in fishing in that portion of a pond, stream or other water in which fish are lawfully cultivated, owned and maintained by an owner or lessee, or remove or carry away or employ, induce or assist any other person to remove or carry away any fish therefrom. Fishing in private waters.

(2) Every person who contravenes the provisions of this section shall incur a penalty of not less than \$5 nor more than \$20, and \$1 for each fish taken; and any net, article, apparatus or appliance used contrary to the provisions of this section may be seized on view by any overseer or by the owner or lessee to be afterwards dealt with according to law. Penalty. 3-4 Geo. V. c. 69, s. 29.

30. Every net shall have the name of the owner legibly marked on two pieces of metal or wood attached to it; and the marks shall be preserved on such nets during the fishing season so as to be visible without taking up the net; and any net used without such marks shall be liable to confiscation. Nets to be marked with name of owners. 3-4 Geo. V. c. 69, s. 30.

31. Where a fishery is in the charge of any person other than the owner, either as occupant or servant, and any of the provisions of this Act are contravened by any such person or by any owner they shall be jointly and severally liable for all penalties incurred and all money recoverable in respect of this contravention. Joint liability of owner and agent. 3-4 Geo. V. c. 69, s. 31.

32. A lessee shall not have the right to sub-let, transfer or assign any right, interest or privilege granted or conferred upon him under the provisions of this Act without the written consent of the Superintendent. Transfer of lease. 3-4 Geo. V. c. 69, s. 32.

33. If, in consequence of incorrectness of survey or other error or from any other cause, a lease comprises land included in a lease of a prior date the lease last granted shall be void in so far as it interferes or purports to interfere with that previously granted, but the lessee shall have no claim for indemnity or compensation. Lessee not entitled to compensation in case of deficiency. 3-4 Geo. V. c. 69, s. 33.

34. Every lease shall be deemed to have been granted subject to the right of passage to and from any water in favour of the occupants, under title from the Crown, of the land in rear of those included in the lease whether so expressed therein or not. Rights of passage. 3-4 Geo. V. c. 69, s. 34.

Disputes,
adjustment of.

35. Disputes between persons relative to fishing limits, or claims to fishery locations or stations or to the position and use of nets and other fishing apparatus, shall be settled by the local overseer subject to appeal to the Superintendent. 3-4 Geo. V. c. 69, s. 35.

Rights of
lessee
against
trespassers.

36. A lease shall, as against trespassers, entitle the lessee to all the rights of an owner in fee simple of the land. 3-4 Geo. V. c. 69, s. 36.

Liability of
trespassers.

37.—(1) Every person not authorized by law so to do who enters upon or passes over any fishery or any land described in a lease, without permission of the owner or lessee, shall be deemed a trespasser and shall be liable to all the penalties by law provided, and to pay all damages which the owner or lessee is entitled to recover, and shall in addition be guilty of an offence against this Act.

Rights of
holders of
timber
license,
navigation,
etc.

(2) This section shall not apply to a person entering upon or passing over such land in discharge of any duty imposed by law, or, when the land is included in a timber license, to the holder thereof, who shall at all times have the right to cut and take away all trees, timber and lumber within the limits of his license; or prevent the owner or occupier of land bordering on any waters using a general right of passage to and from such waters, or prevent the public use of any waters or the banks thereof for the conveyance of timber or lumber or for the free navigation thereof by vessels, boats or other craft, or any user under license by the Crown of any such land or waters for any purpose or occupation not inconsistent with the provisions of this Act. 3-4 Geo. V. c. 69, s. 37.

Lease for
net-fishing
not to prevent
angling.

38. The occupation of fishing grounds or waters leased for the express purpose of net fishing shall not interfere with nor prevent angling for other purposes than those of sale or traffic. 3-4 Geo. V. c. 69, s. 38.

PART IV.

POSSESSION—SALE—TRANSPORTATION.

39. The Lieutenant-Governor in Council may make regulations

- (a) prohibiting or regulating the purchase and sale of or traffic in, snipe, quail, woodcock, partridge, speckled trout, bass and maskinonge. Sale of certain game birds, fish.
- (b) authorizing and regulating the sale of game imported into Ontario and lawfully hunted, killed or procured according to the law of the province, state or country in which the same was killed or procured. Sale of imported game if lawfully procured.
- (c) prohibiting the possession, purchase, sale and transportation of any species of fish in the close season. Possession, etc., of fish in close season.

40.—(1) During the close season no person shall have in his possession or in the possession of his servant or agent, or of any other person on his behalf, any game, wherever killed or procured, or any fish, except that Possession of, game and fish in close season.

- (a) game lawfully killed or procured may be kept during the period between the end of the open season in any year and the sixteenth day of January in the following year;
- (b) skins of moose, deer, caribou and fur-bearing animals may be had in possession during the close season under the authority of a license issued not later than ten days after the end of the open season, and specifying the number and description of such skins.

(2) Except as expressly authorized by license no person other than the actual owner for the use of himself and family shall keep game in cold storage during the season in which the same may be so lawfully possessed. Cold storage in open season.

(3) This section shall not apply to game animals bred or *bona fide* procured for breeding purposes by persons *bona fide* engaged in the business of breeding game animals; and notwithstanding anything in this Act such persons may at all times have in their possession such animals or any part thereof. Exception when for breeding.

41.—(1) Except as expressly authorized by license, and as in this section expressly provided, no person shall, by himself, his servant, clerk or agent, buy, sell or expose or keep for sale, or directly or indirectly, on any pretence or device, for any valuable consideration, barter, give or obtain, to or from any other person, any game wherever killed or procured; but the person who has actually and lawfully hunted, taken and killed any game may sell the same, or any part Purchase and sale of game without license. Exceptions.

thereof, during the open season; and any person may buy from such person, or from the holder of a game dealer's license, any game which such person or licensee is at the time of sale authorized to sell under the provisions of this Act.

Supplying
game at
meals.

(2) Except as expressly authorized by license no hotel, restaurant or club shall during the close season supply for or as a part of any meal for which a charge is made any game, wherever killed or procured, or any fish contrary to the prohibition of any law or regulation.

Unlawful
supplying
under pre-
tended
name.

(3) It shall be an additional offence against this Act, punishable by a penalty of not less than the maximum penalty which would be otherwise applicable, unlawfully to supply at any hotel, restaurant or club for or as part of a meal any game or fish under any pretended name or under the designation of anything which might at the time be lawfully supplied.

Exception
when for
breeding.

(4) The Minister may grant to any person engaged *bona fide* in the business of breeding game animals a permit to buy and sell live game animals bred or procured *bona fide* for breeding purposes and to sell the skins of any such animals, and notwithstanding anything in this Act the holders of the permit may at any time buy or sell live game animals so bred or procured, and sell the skins of any such animal, and it shall be lawful to buy from him any such live game animal or skin. 3-4 Geo. V. c. 69, s. 41.

Inspection
to be facilitated
by lessees,
licensees
and others.

42. Every railway and express company and every other common carrier, every person engaged in the business of cold storage, or of purveying or dealing in game or fish, or of lumbering, or in charge of any camp near any fishery or near any place in which game is usually found, every person fishing or in charge of any fishery, and every person holding any lease or license shall, upon request, permit the Superintendent or any inspector, warden, overseer or other officer to enter and inspect any car, building, premises or enclosure, and to open any receptacle for the purpose of examining all game and fish taken and all implements and appliances for hunting and fishing and for the purpose of searching for game or fish illegally killed or procured, and to examine any book, invoice, or document containing any entry or memorandum relating to game or fish which the officer suspects to be illegally killed or possessed, and shall afford him all reasonable facilities for any such search, and in case of refusal the officer may, without a search warrant, break such locks and fastenings as may be necessary in order to make such examination. 3-4 Geo. V. c. 69, s. 42.

Transporting
deer, moose,
etc., without
shipping
coupons.

43.—(1) No railway or express company, or other common carrier, and no other person shall transport or receive or have in possession in Ontario any deer, moose, elk, reindeer or caribou, or any head, skin or other part thereof unless there is attached thereto one of the shipping coupons

belonging to a license authorizing the shipper to hunt or kill the same together with an affidavit of the shipper that the same was lawfully hunted or taken.

(2) No railway or express company, or other common carrier, and no other person shall transport or receive or have in possession for that purpose in Ontario any game during the close season or in the open season after the expiry of the shipping coupon attached thereto unless there is attached thereto, in addition to a shipping coupon, an affidavit of the shipper that the same was lawfully hunted and taken. Game in close season. Affidavit necessary.

(3) The preceding two subsections shall not prevent the transportation of game if accompanied by an affidavit that the same was lawfully killed in some other part of Canada. Game killed in other provinces.

(4) No railway or express company or other common carrier or other person shall ship or transport out of Ontario or shall receive or have in possession for the purpose of shipping or transporting out of Ontario any salmon trout, lake trout or white fish weighing less than two pounds undressed, taken or caught in Provincial waters. Minimum weight of fish to be transported.

(5) No railway or express company or other common carrier or other person shall receive or have in possession or shall ship or transport to any point or place any fish caught or killed within Ontario at a time or in a manner prohibited by law. 3-4 Geo. V. c. 69, s. 43. Transporting fish illegally caught.

44.—(1) All receptacles, including bags, boxes, baskets, crates, packages and parcels of every kind in which game or fish is packed for transportation, shall be so constructed as to show the contents thereof, or shall be marked with the description of the contents, or in either case shall be marked or labelled with the names and addresses of the consignee and consignor. Marking receptacles for fish or game.

(2) In case of failure to comply with the provisions of this section the owner, consignor or person actually shipping or claiming any such receptacle shall be guilty of an offence against this section. 3-4 Geo. V. c. 69, s. 44. Offence.

45.—(1) A non-resident entitled to hunt or shoot in Ontario by virtue of a license under this Act may export out of Ontario in any one open season game actually and lawfully killed by him as follows: one deer, one bull moose, reindeer or caribou, 100 ducks. Exporting deer, etc., by holders of non-resident licenses.

(2) The shipping coupon belonging to such license shall be attached to every such animal and to the receptacle containing it or any part of it or containing any ducks, and such person shall, if required by the Superintendent or by an inspector, warden or overseer, make a statutory declaration of the fact that such game was lawfully killed by him. Shipping coupon.

(3) Except as provided by this section no person shall at any time export from Ontario, or with intent to do so, Exportation, generally, forbidden.

Exceptions. hunt, take or kill any game, except deer, moose, elk, reindeer or caribou which are not wild but are private property of and have been killed or taken by the owner or with his consent or by his direction in and upon his own land. 3-4 Geo. V. c. 69, s. 45.

PART V.

LICENSES.

Regulations. **46.** The Lieutenant-Governor in Council may make regulations

Terms of license. (a) governing the issue of licenses and permits, prescribing the terms and conditions thereof, the period for which the same shall be in force, and the fees payable in respect thereof;

Special license to guest of resident. (b) for granting without fee a special license to enable a guest of a resident of Ontario to hunt and shoot therein for a term not exceeding one week;

Reduced fee to residents of other provinces. (c) for reducing the fee for a non-resident hunting license to a resident of any other Province of Canada by providing that such license may be issued upon the same terms and conditions upon which a similar license is issued under the law of such other Province to a resident of Ontario. 3-4 Geo. V. c. 69, s. 46.

Not to be issued to convicted persons or their employers. **47.—(1)** No license shall be issued or permit granted to any person convicted of any offence against this Act within two years next preceding the date of application for such license or to any person employing a person so convicted.

Illegal transfer. (2) A license shall not be transferable, and every person who buys, sells, exchanges or in any way becomes a party to the transfer of any license or shipping coupon, or in any way uses or attempts to use a license or coupon issued to any other person shall be guilty of an offence against this Act.

Cancellation. (3) A license may be cancelled by the Superintendent, subject to appeal to the Minister, for a contravention by the licensee, or by any person with his connivance, of this Act or of the Regulations or of any of the terms and conditions of the license, notwithstanding that no prosecution has been instituted or conviction had in respect of such contravention.

Effect of conviction as cancellation. (4) A conviction for any offence against this Act shall operate as a cancellation of every license held by the person convicted.

License discretionary. (5) The issue of a license shall be in the discretion of the Superintendent subject to appeal to the Minister. 3-4 Geo. V. c. 69, s. 47.

48.—(1) A license may be issued to

Hunting
licenses.

(a) a person not resident in Ontario to carry guns, rifles and fire-arms and to hunt and shoot, and the fee for such license shall not exceed \$50;

To non-
residents.

(b) a resident of Ontario to hunt deer, and the fee for such license shall be \$2;

To residents,
deer.

(c) a resident of Ontario to hunt moose, reindeer or caribou, and the fee for such license shall be \$5;

To residents
for moose,
reindeer or
caribou.

(d) a person not resident in Ontario to hunt and trap fur-bearing animals, and the fee for such license shall be \$20.

To non-
residents
for fur-bearing
animals.

47 (2) Every person who has obtained a license under this section shall at all times when hunting carry such license on his person, and shall at all reasonable times and as often as reasonably requested produce and show the same to the Superintendent or any inspector, warden or overseer or person acting under the authority of any of them who requests him so to do, and on failure or refusal shall forfeit such license, and if found hunting or taking any deer or other animals for hunting which a license is required shall, on proof of failure or refusal to comply with such request, be deemed to have been guilty of an offence against this Act.

Production
of licenses
on demand.

(3) There shall be attached to every license one or more shipping coupons plainly marked with the description of the game for hunting which the license is issued, and there shall be printed or stamped upon the coupon the date when it will expire which shall not be later than ten days after the last day of the open season for which the license is issued.

Coupons to
be attached
to license.

(4) Where any deer, moose, reindeer or caribou, or any part thereof, or any game for export under section 45 is presented for shipment at a railway station, steamboat landing or other point of shipment a coupon shall be detached from the license and signed by the person to whom the license is issued, in the presence of the shipping agent or clerk in charge of the office at such point of shipment, and attached to each deer or other animal, or part thereof, or to the receptacle in which it or any ducks are contained, and thereupon such shipping agent or clerk shall write across the face of the coupon the word "cancelled."

Detachment
and
cancellation
of.

(5) Any person, shipping agent or clerk who contravenes any provision of this section, or uses a coupon after the expiry thereof, or ships or assists in the shipment of anything to which a coupon is required to be attached without complying with the provisions of this section shall be guilty of an offence against this Act. 3-4 Geo. V. c. 69, s. 48.

Contravention.

49. A license may be issued upon such terms and conditions as may be imposed by the Regulations authorizing

What
licenses may
be issued.

(a) any person engaged in the business of cold storage of perishable articles to keep any game during

Cold storage.

the open season, and during the period in the close season from the end of the open season in any year to the 16th day of January of the following year, and the fee for such license shall be \$25;

Game dealers.
Sale in open
season.

- (b) any person during the open season and during the period in the close season from the end of the open season in any year to the 1st day of January of the following year to buy and sell, and, within the limits of the municipality for which such license is issued, to expose for sale game lawfully killed and procured, and during such period and upon the conditions prescribed by the Regulations game imported into Ontario, specified and described in the Regulations, and lawfully hunted, killed or procured according to the law of the province, state or country in which the same were killed or procured, and the fee for such license shall be in cities having a population of not less than 100,000, \$25; in other cities having a population of not less than 50,000, \$10; in cities having a population of less than 50,000 and not less than 25,000, \$5; in cities having a population under 25,000 and in towns, \$2; and in villages and townships, \$1;

Rule as to
imported
game in
close season.

Supply of
game by
hotels, etc.

- (c) a hotel, restaurant or club to supply for or as part of a meal served upon its premises any game lawfully obtained during the period in which the same may be lawfully kept in cold storage; and the fee for such license shall be in cities having a population of not less than 100,000, \$10; in other cities having a population of not less than 50,000, \$5; and in all other municipalities, \$1.
3-4 Geo. V. c. 69, s. 49.

Conditions of
licenses for
the Nepigon
waters.

50. Licenses may be issued authorizing fishing in the Nepigon River, Nepigon Lake and adjacent waters subject to the following in addition to any other conditions imposed by the Regulations:—

Number and
terms of
licenses.

- (a) One license only may be issued to any applicant and shall not be for a longer period than four weeks from the date of issue;

Fee for
license.

- (b) The fee for such license for two weeks or less shall be \$15, for three weeks \$20, and for four weeks \$25, where the applicant is not a permanent resident of Canada; and \$5 for two weeks and \$10 for four weeks where the applicant is a permanent resident of Canada;

Not trans-
ferable and
to be produced
upon request.

- (c) The license shall not be transferable and the holder shall produce and exhibit it whenever called

upon so to do by the Superintendent or an inspector, warden or overseer;

- (d) All fishing camps and fishing parties visiting such waters shall be subject to the supervision of the Superintendent or an inspector, warden or overseer who may direct what arrangement shall be made with regard to sanitary matters, the disposal of refuse and the extinction of fires. ^{Subject to supervision.}
- (e) A licensee, his servant or agent shall not cut live timber except where necessary for the purpose of camping and shelter, such as for tent poles, tent pins, and the like. ^{Cutting of live timber prohibited.} 3-4 Geo. V. c. 69, s. 50.

51. Licenses may be issued authorizing fishing in any waters subject to any terms, conditions or limitations, and for any district or fishery, and within any boundaries therein or in the Regulations set forth. ^{Fishing licenses.} 3-4 Geo. V. c. 69, s. 51.

52. Licenses or permits may be issued on such terms and conditions as may be prescribed by the Regulations giving authority to act as guides for hunting, shooting or fishing in any part of Ontario specified in any license or permit to such persons applying therefor as are certified by any inspector or warden to be fit and proper persons and qualified so to act; and the fee for any such license or permit shall not exceed \$2. ^{Guides.} 3-4 Geo. V. c. 69, s. 52.

53. The Minister may direct the refund of the fee paid for any license, or any part of such fee, where, owing to the license not having been used, or having been used for part only of the period for which it was issued, he deems it just so to do, and the Treasurer of Ontario, upon the written request of the Minister, shall cause a cheque to be issued for the amount of such refund. ^{Refunding fee.} 3-4 Geo. V. c. 69, s. 53.

PART VI.

ADMINISTRATION.

Government regulations. **54.** The Lieutenant-Governor in Council may make regulations—

Administration. (a) for the administration of the Game and Fisheries Branch;

Appointment of officers. (b) for the appointment of the Superintendent, inspectors, wardens, overseers, officers, servants and other persons whose assistance he may deem requisite for the purposes of this Act, and for their remuneration;

Making certain overseers Justices of the Peace. (c) conferring upon certain overseers by special appointment the powers of Justices of the Peace for the purposes of this Act and of the Regulations. 3-4 Geo. V. c. 69, s. 54.

Superintendent. **55.** The administration of the Game and Fisheries Branch shall, under the Minister, be in charge of the chief officer thereof who shall be known as the Superintendent of Game and Fisheries. 3-4 Geo. V. c. 69, s. 55.

Inspectors of Game and Fisheries. **56.** There shall also be appointed inspectors of game and fisheries, not exceeding three, who shall, in addition to such duties as may be imposed upon them by the Regulations, examine and report upon the enforcement of the Act in all parts of Ontario, the manner in which all wardens and overseers have during the year performed their duties, and shall also examine all applicants for the office of game and fishery overseer. 3-4 Geo. V. c. 69, s. 56.

Wardens of Game and Fisheries. **57.** There shall also be appointed wardens of game and fisheries, not exceeding fourteen, who, subject to the Superintendent, shall have charge of and be responsible for the enforcement of this Act in the districts for which they shall respectively be appointed. 3-4 Geo. V. c. 69, s. 57.

Oath to be taken before acting. **58.** The Superintendent, inspectors, wardens, overseers and deputy game and fisheries wardens shall before acting take and subscribe the following oath:—

1. A. B., Superintendent (or as the case may be), appointed under the provisions of *The Ontario Game and Fisheries Act*, do swear that to the best of my judgment I will faithfully, honestly and impartially execute and perform the office and duty of such Superintendent (or as the case may be) according to the true intent and meaning of *The Ontario Game and Fisheries Act* and the regulations.

So help me God.

3-4 Geo. V. c. 69, s. 58.

59. The Superintendent and inspectors and wardens of game and fisheries, overseers authorized by their appointment to act as Justices of the Peace, and the superintendent and inspectors of the Ontario Provincial Police shall be Justices of the Peace in and for every county or district for the purposes of this Act and of the Regulations, and may take informations and issue warrants or summonses in any county or district returnable in the county or district in which the offence is alleged to have been committed. 3-4 Geo. V. c. 69, s. 59.

60.—(1) Subject to the approval of the Minister the Superintendent may appoint the overseers and may in his discretion dismiss any of them.

(2) Overseers shall be paid by salary or by special remuneration for work performed, prosecutions conducted or convictions obtained under this Act, or partly by salary and partly by special remuneration, but shall not be entitled to receive directly any fines imposed for offences against this Act. 3-4 Geo. V. c. 69, s. 60.

61.—(1) Every overseer shall before acting obtain and deposit with the Superintendent a written certificate signed by an inspector or warden that he is a fit and proper person to be appointed to the office of overseer.

(2) An overseer shall have the authority of a constable for the purposes of this Act and the Regulations.

(3) Every overseer, not being himself a Justice of the Peace or authorized to act as such, on view of a violation of this Act shall arrest the person committing the same without process and bring him with reasonable diligence before a Justice of the Peace to be dealt with according to law.

(4) Every overseer, if he has reason to suspect and does suspect that game, peltries or fish have been killed, taken or shipped or are had in possession contrary to the provisions of this Act or the Regulations and are contained in any trunk, box, bag, parcel or receptacle, shall open the same, entering all premises which under the provisions of this Act he is authorized to enter, and using necessary force in case the owner or person in charge obstructs or refuses to facilitate his search; and if such overseer has reason to believe and does believe that it is necessary to enter any store, private house, warehouse, car or building which he is not under the provisions of this Act authorized to enter without a search warrant he shall make a deposition, Form A, before a Justice of the Peace and demand a search warrant to search such store, private house, warehouse, car or building, and thereupon such Justices of the Peace may issue a search warrant, Form B.

(5) Every overseer shall forthwith seize all game and fish and all boats, guns, decoys, nets, lines, tackle, appliances,

materials and articles used or had in possession contrary to the provisions of this Act or the Regulations, and shall deal with them according to law; but articles the use of which is at all times unlawful shall forthwith be destroyed.

Duty to investigate and prosecute.

(6) Every overseer shall investigate all violations of this Act or of the Regulations brought to his notice and prosecute every person whom he may have reasonable cause to believe guilty of any offence against this Act.

Right of passage.

(7) In the discharge of his duties every overseer and every person by him accompanied, or authorized for that purpose, may enter upon and pass through or over private property without being liable for trespass.

Obstructing officers in the discharge of their duty.

(8) Any person who obstructs, hinders, delays or interferes with an overseer in the discharge of his duty by violence or by means of threats, or by giving false information or in any other manner shall be guilty of an offence against this Act.

Neglect to fulfil duties.

(9) Every overseer or other person authorized to enforce the provisions of this Act who neglects or refuses so to do or to perform any of the duties pertaining to his office shall be guilty of an offence against this Act.

Abuse of power.

(10) Any officer who maliciously abuses his power shall be guilty of an offence against this Act.

Overseers *ex-officio*.

(11) All the provisions of this section as to overseers shall apply to the Superintendent, inspectors and wardens so far as is consistent with their respective duties; and all sheriffs, deputy sheriffs, provincial police or constables, county constables, police officers, wood rangers, Crown lands agents, timber agents and fire wardens shall *ex officio* be overseers. 3-4 Geo. V. c. 69, s. 61.

Deputy game and fishery wardens—appointment, etc., of.

62.—(1) Subject to the approval of the Minister the Superintendent may appoint deputy game and fishery wardens in and for any part of Ontario, and may in his discretion dismiss them.

Remuneration.

(2) Deputy game and fishery wardens shall be appointed without salary, except when on special service, and shall receive one-half of all fines resulting from convictions obtained by them.

To have the authority of constables.

(3) Every deputy game and fishery warden shall have the authority of a constable for the purposes of this Act and the Regulations. 3-4 Geo. V. c. 69, s. 62.

PART VII.

PROCEDURE—EVIDENCE—PENALTIES.

63.—(1) Prosecutions for offences against or for the recovery of penalties imposed under the authority of this Act may be brought and heard before any person authorized by this Act to act as a Justice of the Peace or before any of His Majesty's Justices of the Peace for the county or district in which the penalty was incurred or the offence was committed, or if near any boundary between different counties or districts then in either, or in any case in the county or district in which the offender lives or is found, and in a city, town or village in which there is a police magistrate before him; but no person shall be compelled to attend at a greater distance from the place where he may have been found or arrested or from his place of residence or the place where the offence was committed than ten miles if there is a Justice of the Peace residing within that distance who is willing to dispose of the case and is not disqualified.

Persons
before whom
offences may
be tried.

(2) The information or complaint shall be laid within six months after the commission of the offence except in the case of a prosecution for omissions to make any return required by this Act or the Regulations.

Limitation.

(3) A contravention of this Act or of the Regulations or the terms or conditions of a lease or license shall be and may be stated as an offence against this Act.

Offences.

(4) The description of an offence in the words either of this Act or of the Regulations or in any similar words shall be sufficient; and an information or complaint may be for two or more offences.

Description of
offence.

(5) Any justice of the peace or other person authorized by this Act to act as a justice of the peace for the purposes thereof may upon his own view convict for any offence against this Act or the regulations.

Conviction
on view.

(6) A violation of this Act or the Regulations shall constitute a separate offence in respect of each game animal, bird or fish which is the subject thereof, though more than one violation of the same or of a different kind and in respect of more than one game animal, bird or fish takes place at the same time or upon the same day.

Separate
offences.

(7) Upon the trial of any prosecution under this Act the Justice shall, if it appears that more than one offence of the same kind was committed at the same time or on the same day, impose all the penalties in one conviction.

Offences of
same kind
on same
day.

(8) The Justice shall by the conviction adjudge that the offender be imprisoned for any term not exceeding three months unless the penalty, the costs and charges of prosecution and commitment and of conveying the offender to prison are sooner paid.

Committal on
non-payment
of fine.

Defects of
form.

(9) A conviction or order made in any matter arising under this Act, either originally or on appeal, shall not be quashed for want of form, and a conviction or order made by a court of summary jurisdiction against which a person is authorized to appeal shall not be removed by *certiorari* or otherwise either at the instance of the Crown or any private person into the Supreme Court.

Procedure,
Rev. Stat.
c. 90.

(10) In all prosecutions under this Act, save when herein otherwise provided, the procedure shall be governed by *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 69, s. 63.

Onus of
proof.

64.—(1) In all actions and prosecutions under this Act the onus shall be upon any person found in possession of any game or fish in a close season to prove that such game was lawfully taken, killed and procured.

Finding nets
to be
evidence.

(2) The finding of any net, fishing device or other article set or maintained in violation of this Act shall be *prima facie* evidence of the guilt of the person owning, possessing or operating the same.

Possession,
etc.

(3) In all actions and prosecutions under this Act the possession of a gun, decoy or other implement for shooting or hunting in or near any place where any game has been or is likely to be found shall be *prima facie* evidence that the person in possession thereof was hunting or shooting such game. 3-4 Geo. V. c. 69, s. 64.

Deer, etc.

65.—(1) Any person who commits any offence against this Act in respect of deer, moose, reindeer, caribou, beaver or otter shall for each offence incur a penalty of not less than \$20 nor more than \$100, and any person who commits any other offence against this Act shall for each offence incur a penalty of not less than \$5 nor more than \$50.

Other
offences.

Second and
third
offences.

(2) Any person who after having been convicted of an offence against this Act within two years again offends against this Act shall incur a penalty of not less than double the minimum penalty provided for the offence, and upon a third or subsequent conviction at any time thereafter shall incur a penalty of not less than the maximum penalty provided for the offence.

Masked when
offence
committed.

(3) Any person convicted of any offence against this Act shall, if he is proved to have been masked or disguised and in possession of a gun or other fire-arm at the time such offence was committed, be liable to be imprisoned for a period not exceeding three months without the option of a fine in addition to the penalty elsewhere provided for such offence.

Remission or
reduction of
penalties.

(4) No Justice of the Peace shall have power to remit any penalty or to reduce the amount of the penalty in case of conviction for more than one offence upon the same prosecution; but in any case in which the aggregate penalties upon

conviction for more than one offence committed at the same time or included in the same conviction amount to more than \$500 the Minister may remit any part of the excess.

(5) All penalties imposed and collected in prosecutions under this Act in which overseers are prosecutors shall be paid to the Treasurer of Ontario. ^{Application of fine.}

(6) Subject to subsection 2 of section 62, one-half of every penalty imposed and collected under the provisions of this Act where any other person is the prosecutor shall be paid to him, or to the person on whose evidence the conviction is made, as the Justice may determine, and the other one-half shall be paid to the Treasurer of Ontario. ^{One-half fine to go to private prosecutor.}

(7) All guns, ammunition, boats, skiffs, canoes, punts and vessels of every description, decoys, nets, rods, lines, tackle and all appliances of every kind used for hunting or fishing, and all game and fish found in the possession of any person committing an offence against this Act or in respect of which any such offence was committed shall upon seizure be forfeited and, save as hereinafter provided, shall become the property of His Majesty and shall be forwarded to the Superintendent to be sold and the proceeds paid to the Treasurer of Ontario. ^{Confiscation of game, etc.}

(8) Articles of which the use is at all times unlawful shall be destroyed on seizure, and perishable game and fish may in the discretion of the overseer be immediately given to any charitable institution. ^{Disposal.}

(9) Upon seizure of any game or fish illegally killed or had in possession, or in respect of which any offence against this Act has been committed, all packages, boxes, crates, parcels or other articles containing the same, together with all other contents thereof of every kind, shall be forfeited and shall become the property of His Majesty, and shall be sold and the proceeds applied as provided in subsection 8. ^{Confiscation of packages, etc.}

65 (10) A person who commits an offence against this Act shall not have or acquire any right of property in game or fish caught or taken by him while committing such offence or in respect of which such offence was committed, but the same shall be forfeited and shall become the property of the owner, lessee or licensee, if any, in breach of whose rights the offence was committed, or if there is no such owner, lessee or licensee shall become the property of His Majesty. ^{No right of property in game or fish illegally caught.}

(11) The penalties in the next preceding four subsections provided as to forfeiture and loss of property shall take effect upon seizure if any offence has been in fact committed notwithstanding that no conviction is had against the person who commits such offence. ^{Penalties to take effect on confiscation.}

Conviction to
cancel
license.

(12) All leases, licenses or permits held by any person convicted of any offence against this Act shall be deemed to be cancelled upon conviction without further action or notice given by any officer of the Game and Fisheries Branch.
3-4 Geo. V. c. 69, s. 65.

SCHEDULE.

FORM A.

Section 61 (4).

DEPOSITION FOR A SEARCH WARRANT.

I, _____ declare that I have reason to suspect, and do suspect, that game, peltries or fish unlawfully killed or taken or had in possession (*as the case may be*) are at present held and concealed (*describe here the property, occupant, etc., and the place*).

Wherefore, I pray that a warrant may be granted and given to me to effect the necessary searches for (*describe here the property, etc., as above*).

Sworn before me at
this _____ day of _____

_____, A.D. 19 _____

X. Y.

L. B.

J. P.

3-4 Geo. V. c. 69, Schedule, Form A.

FORM B.

Section 61 (4).

SEARCH WARRANT.

To the constables of _____

Whereas _____ has this day declared, under oath, before me, that he has reason to suspect and does suspect that game, peltries or fish unlawfully taken or had in possession (*as the case may be*) are at present held and concealed (*describe property, occupant, place, etc.*).

Therefore you and each of you are commanded by these presents, in the name of His Majesty, to assist the said _____, and diligently to help him to make the necessary searches for (*describe the game, peltries or fish unlawfully taken or had in possession, etc.*) which he has reason to suspect, and does suspect, to be held and concealed in (*describe the property, etc., as above*), and to deliver, if need there be, the said game, etc. (*as the case may be*) to the said _____ to be by him brought before me, or before any other Justice of the Peace, to be dealt with according to law.

Given under my hand and seal at _____
(or District) of _____, this _____ day of _____

_____, in the County
A.D. 19 _____
L. B.

J. P.

[L.S.]

3-4 Geo. V. c. 69, Schedule, Form B.

CHAPTER 263.

An Act for the Protection of Insectivorous and other Birds.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Protection of Birds Act*. Short title.

2. Nothing in this Act shall affect *The Ontario Game and Fisheries Act* or apply to any imported cage bird or other domesticated bird or birds generally known as cage birds or to poultry. R.S.O. 1897, c. 289, s. 1. Game, birds and cage birds and poultry not affected. Rev. Stat. c. 262.

3.—(1) Except as in section 7 provided it shall not be lawful to or to attempt to shoot, destroy, wound, catch, net, snare, poison, drug or otherwise kill or injure any wild native birds other than hawks, crows, blackbirds and English sparrows and the birds specially mentioned in *The Ontario Game and Fisheries Act*. Birds that may not be killed. Exceptions. Rev. Stat. c. 262.

(2) Any person may, during the fruit season for the purpose of protecting his fruit, shoot or destroy on his own premises the bird known as the robin without being liable to any penalty under this Act. R.S.O. 1897, c. 289, s. 2. Robins.

4.—(1) Except as in section 7 provided it shall not be lawful to take, capture, expose for sale or have in possession any bird, save the kinds hereinbefore or hereinafter excepted, or to set wholly or in part any net, trap, springe, snare, cage, or other machine or engine by which any birds, except hawks, crows, blackbirds and English sparrows, might be killed or captured. Trapping and selling forbidden. Exceptions.

(2) Any net, trap, springe, snare, cage or other machine or engine set either wholly or in part for the purpose of capturing or killing any birds, except hawks, crows, blackbirds and English sparrows, may be destroyed by any person without incurring any liability for so doing. R.S.O. 1897, c. 289, s. 3. Destruction of traps.

5. Except as in section 7 provided it shall not be lawful to take, injure, destroy or have in possession any nest, young or eggs of birds other than hawks, crows, blackbirds and English sparrows. R.S.O. 1897, c. 289, s. 4. Nest, young or eggs not to be taken.

Power to seize birds unlawfully possessed.

6. Any person may seize, on view, any bird unlawfully possessed and carry it before a Justice of the Peace to be by him confiscated, and if alive to be liberated; and all market clerks and peace officers on the spot shall seize and confiscate, and if alive liberate such bird. R.S.O. 1897, c. 289, s. 5.

Permit may be granted by Superintendent to ornithologists, etc.

7.—(1) The Superintendent of Game and Fisheries, on receiving from any ornithologist or student of ornithology or biologist, or student of biology, an application, Form 1, and recommendation, Form 2, may grant to such applicant a permit, Form 3, authorizing him to collect and to purchase or exchange all birds and their nests and eggs otherwise protected by this Act at any time or season when he may require them for the purpose of study without incurring any penalty under this Act. R.S.O. 1897, c. 289, s. 6.

Duration of permit.

(2) A permit granted under this section shall continue in force until the end of the calendar year in which it is issued and may be renewed at the option of the Superintendent of Game and Fisheries. R.S.O. 1897, c. 289, s. 7.

Penalties.

8.—(1) Every person who contravenes any of the provisions of this Act shall incur a penalty of not less than \$1 nor more than \$20 recoverable under *The Ontario Summary Convictions Act*.

Rev. Stat. c. 90.

Application of fines.

(2) The whole of the penalty shall be paid to the prosecutor unless the convicting Justice has reason to believe that the prosecution is in collusion with and for the purpose of benefiting the accused, in which case the Justice may order the disposal of the fine as in ordinary cases. R.S.O. 1897, c. 289, s. 8, *part*.

SCHEDULE.

FORM 1.

FORM OF APPLICATION FOR PERMIT.

I, _____ of _____ apply for
 a permit granting to me the right to collect and to purchase or
 exchange birds, and their nests and eggs, for strictly scientific
 purposes only, in accordance with *The Protection of Birds Act*.
 Dated at _____ the _____ day of _____ 19____,
 A. B.
 Applicant.

To

The Superintendent of Game and Fisheries,
 Toronto.

R.S.O. 1897, c. 289, Sched. Form A.

FORM 2

FORM OF RECOMMENDATION.

We, the undersigned, personally know _____ and believe him to
 be a person of good character, and fit to be entrusted with the
 privilege of collecting and purchasing, or exchanging birds, and
 their nests and eggs in accordance with *The Protection of Birds Act*,
 which we have carefully examined and fully comprehended.

Dated at _____ the _____ day of _____, 19____,
 A. B.
 (Address.)

R.S.O. 1897, c. 289, Sched. Form B.

FORM 3.

FORM OF CERTIFICATE.

Mr. _____ of the _____ in the _____ of
 _____ in the Province of Ontario is hereby authorized
 to collect and to purchase and exchange birds, and their nests and
 eggs, for strictly scientific purposes only, in accordance with *The
 Protection of Birds Act*.

Dated at _____ the _____ day of _____, 19____.

Superintendent of Game and Fisheries.

R.S.O. 1897, c. 289, Sched. Form C.

CHAPTER 264.

An Act to encourage the Destruction of Wolves.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

- Short title.** **1.** This Act may be cited as *The Wolf Bounty Act*. 1 Geo. V. c. 77, s. 1.
- Interpretation.** **2.** In this Act,
- “County.” (a) “County” shall not include the Provisional County of Haliburton;
- “Regulations.” (b) “Regulations” shall mean regulations made by the Lieutenant-Governor in Council under the authority of this Act;
- “Wolf.” (c) “Wolf” shall mean a grey timber wolf. 1 Geo. V. c. 77, s. 2.
- Oath and certificate of killing of wolf in county.** **3.** Where a person who has killed a wolf in any county or within one mile of any actual settlement in a county produces the skin of the wolf before the sheriff or treasurer of such county, or before a police magistrate, a clerk of the division court, or before such officer as the Treasurer of Ontario may approve of, together with an affidavit in the form prescribed by the Regulations stating the place where and the date when the wolf was killed, with such other particulars as may be prescribed by the Regulations, the sheriff, treasurer, police magistrate, clerk of the division court or other officer shall give to the person producing the skin a certificate in the form prescribed by the Regulations. 1 Geo. V. c. 77, s. 3.
- Bounty payable by county.** **4.** Upon the delivery of such certificate by the person named therein to the treasurer of the county, together with the skin of the wolf, the treasurer shall pay to such person the sum of \$15 as a bounty upon the killing of the wolf. 1 Geo. V. c. 77, s. 4.
- Part of bounty to be recouped county by Province.** **5.** Upon the delivery of such certificate and the skin of the wolf to the Treasurer of Ontario the corporation of the county shall be entitled to receive the sum of \$6 upon every bounty of \$15 so paid out of such money as may from time to time be appropriated by this Legislature for the payment of wolf bounty. 1 Geo. V. c. 77, s. 5.

6.—(1) Where a wolf has been killed in a provisional judicial district the skin may be produced before a Judge of the District Court, a police magistrate, a clerk of the division court, the sheriff of the district, an agent of the Department of Lands, Forests and Mines, the Clerk of the District Court, a notary public, a commissioner for taking affidavits or a justice of the peace in and for such district. 1 Geo. V. c. 77, s. 6 (1); 3-4 Geo. V. c. 18, s. 44.

Oath and certificate of killing of wolf in district.

(2) Where a wolf has been killed in the Provisional County of Haliburton the skin may be produced before a police magistrate, an agent of the Department of Lands, Forests and Mines, or a clerk of a division court in the Provisional County, a Judge of the County Court of the County of Victoria, the Clerk of the said Court or the sheriff of the said county.

In Haliburton.

(3) Upon the like proof as set forth in section 3 the Judge or officer before whom the skin is produced may give the certificate mentioned in section 3, and upon the delivery of such certificate and the skin of the wolf the person named in the certificate shall be entitled to receive from the Treasurer of Ontario the sum of \$15 out of such money as may be appropriated by this Legislature for the payment of wolf bounty. 1 Geo. V. c. 77, s. 6 (2), (3).

Certificate.

7. Where a claim is made for the payment of bounty for a wolf killed in Algonquin Park, the affidavit may be taken and the certificate may be given by the Superintendent of the Park, and it shall not be necessary to show that the person killing the wolf had the special license provided for by section 9 of *The Provincial Parks Act*. 1 Geo. V. c. 77, s. 7.

When wolf killed in Algonquin Park.

Rev. Stat. c. 52.

8. Before payment of the bounty to the corporation of the County or directly to the person killing the wolf the skin shall be delivered to the Treasurer of Ontario, or to such person as he may designate for that purpose, and shall become the property of the Crown and may be disposed of in such manner as the Lieutenant-Governor in Council may prescribe. 1 Geo. V. c. 77, s. 8.

Skin to be delivered to Treasurer of Ontario.

9. In case of any claim heretofore or hereafter made, whenever the Treasurer of Ontario is satisfied that the person killing a wolf or the corporation of the county which has paid a wolf bounty is justly entitled to receive the bounty, he may direct the issue of a cheque in payment thereof notwithstanding any defect in the affidavit or certificate or any doubt as to the authority of the officer taking such affidavit or giving such certificate, and in such case the Provincial Auditor shall forthwith without further audit or examination countersign such cheque. 1 Geo. V. c. 77, s. 9.

Claims may be paid notwithstanding errors in proofs.

Regulations.

10. The Lieutenant-Governor in Council may make regulations for the better carrying out of the provisions of this Act, and copies of such regulations together with the forms therein prescribed shall be transmitted by the Treasurer of Ontario to the officers mentioned in sections 3 and 6 of this Act. 1 Geo. V. c. 77, s. 10.

SECTION XV.

EDUCATION.

CHAPTER 265.

An Act respecting the Department of Education.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

GENERAL.

1. This Act may be cited as *The Department of Education Act*. Short title.
9 Edw. VII. c. 88, s. 1.

2. In this Act,— Interpretation.

- (a) "Council" shall mean the Advisory Council of Education; "Council."
- (b) "Department" shall mean the Department of Education; "Department."
- (c) "Minister" shall mean the Minister of Education; "Minister."
- (d) "Registrar" shall mean the Registrar of the Department; "Registrar."
- (e) "Regulations" shall mean regulations made by the Minister and approved of by the Lieutenant-Governor in Council as provided by this Act. "Regulations."
9 Edw. VII. c. 88 s. 2.

3.—(1) There shall be a Department of the Government of Ontario to be known as "The Department of Education," which shall be presided over by the Minister of Education. Department of Education.

(2) The Lieutenant-Governor in Council may appoint a Deputy Minister of Education and a Registrar of the Department of Education. Deputy Minister and Registrar.
9 Edw. VII. c. 88, s. 3.

MINISTER OF EDUCATION.

4.—(1) The Minister shall have the administration and enforcement of the Statutes and Regulations respecting Pub- Powers of Minister.

Administra-
tion.

lic Schools, Separate Schools, Kindergarten Departments, Supervised and Out-door Playgrounds, Consolidated Schools, High Schools, Collegiate Institutes, Continuation Schools, Technical Schools, School Cadet Corps, all Departments of any such schools, Night Schools, School Gardens, School Libraries, Public Libraries, Travelling Libraries, Library Institutes and of all other schools supported in whole or in part by public money which may hereafter be established, unless other provision is made in the Act by which the school is established. 9 Edw. VII. c. 88, s. 4 (1); 3-4 Geo. V. c. 70, s. 39 (1).

Management
of Schools and
Institutions.

(2) The Minister shall have the management and control of Model Schools, Normal Schools, Teachers' Institutes, Summer and Vacation Schools and Schools for the Education of the Deaf and Dumb and the Blind.

Appointment
of Inspectors,
Teachers, and
Officers.

(3) The Minister may appoint such Inspectors, Teachers and Officers for purposes of instruction, supervision and administration as he may deem expedient.

Prescribing
duties of
officers.

(4) Subject to the provisions of this Act and to the Regulations, the Minister may prescribe the duties of the Registrar and of all other officers of the Department. 9 Edw. VII. c. 88, s. 4 (2-4).

Regulations.

5. Subject to the provisions of any Statute in that behalf the Minister, with the approval of the Lieutenant-Governor in Council, may make Regulations

Schools, de-
partments, etc.

(a) for the establishment, organization, government, courses of study, and examination of the schools, departments, school cadet corps, school gardens, supervised and out-door playgrounds, institutes and institutions hereinbefore mentioned;

Fees of
candidates
and students.

(b) prescribing the fees, if any, to be paid by candidates at departmental examinations, other than high school entrance examinations, and by normal and model school students;

Fees of
examiners,
etc.

(c) prescribing the fees to be paid to presiding officers and examiners in connection with Departmental Examinations and by whom and in what manner such fees and any other expenses in connection with such examinations shall be borne and paid;

Accommo-
dation
and equipment
of school
houses and
grounds.

(d) prescribing the accommodation and equipment of school houses and the arrangement of school premises;

Text books
and books
of reference.

(e) authorizing text books for the use of pupils and of teachers in training attending such schools, departments, school gardens, corps, institutes and institutions, and books of reference for the use of teachers and pupils;

- (f) for the management of public, travelling and school Libraries.
libraries and library institutes;
- (g) prescribing the qualifications and duties of inspec- Qualifica tion
tors, teachers and directors of such schools, depart- and duties of
ments, corps, school gardens, supervised and out- teachers and
door playgrounds, institutes and institutions; inspectors.
- (h) for conducting the examinations prescribed by the Conducting
Regulations and settling the results thereof; examinations.
- (i) for granting temporary, interim, special, permanent, Teachers'
and renewed certificates of qualification to teach- certificates.
ers;
- (j) for the payment of the superannuation allowances Superannua-
of inspectors and teachers; tion allow-
ances.
- (k) for the apportionment and distribution of all money Apportionment
appropriated by this Legislature for educational of legislative
purposes, including sums granted for public and grant.
travelling libraries and the maintenance of his-
torical, literary and scientific institutions;
- (l) for the affiliation with any University in Ontario or Affiliating
with the Normal or Model Schools of such Colle- certain schools
giate Institutes, High Schools, Public Schools or with other
Separate Schools as he may deem necessary for institutions.
practical instruction in the art of teaching;
- (m) for accepting such courses and examinations as he Accepting
may deem adequate for the academic and profes- courses and
sional training of teachers; examinations
in pedagogy.
- (n) for the conduct of the business of the Advisory Conduct of
Council of Education. 9 Edw. VII. c. 88, s. 5; business of
3-4 Geo. V. c. 70, s. 39 (2). council.

6.—(1) It shall be the duty of the Minister and he shall Powers and
have power, duties of
Minister.

- (a) to apportion all sums of money appropriated as a Apportionment
general grant for urban public and separate of general
schools among the several cities, towns and villages grant for
according to the population of each as compared urban schools.
with the population of all the urban municipali-
ties in Ontario according to the last annual
returns received from municipal clerks;
- (b) to divide the amount so apportioned to each city, Division be-
town and village between the public and separate tween Public
schools therein, according to the average number and Separate
of pupils who attended such schools respectively schools.
during the next preceding calendar year;
- (c) to pay, on or before the first day of August in each Payment of
year, the grants so apportioned to the treasurer of grants to pub-
lic schools.

each city, town and village, for payment to the respective boards of public schools upon the warrants of the inspectors;

Apportionment
of special
school grants.

- (d) subject to the Regulations, to apportion all sums of money appropriated as a special grant for urban public and separate schools among the several cities, towns and villages on the basis of the grade of the teachers' certificates and the length of their successful experience;

Payment of
special grant
to public
schools.

- (e) to pay, on or before the first day of August in each year, the grants so apportioned to the respective boards of public school trustees upon the warrants of the public school inspectors;

Payment of
grants to sep-
arate schools.

- (f) to pay, on or before the first day of August in each year, the grants so apportioned to the respective boards of separate schools upon the warrants of the inspector of separate schools;

Apportionment
of grant for
rural schools.

- (g) subject to the Regulations, to apportion all sums of money appropriated as a general grant for the rural public and separate schools amongst such rural schools on the basis of the salaries paid to the teachers, the value of the equipment, the character of the accommodation, the grade of the teachers' professional certificates, the length of their successful experience and the amount of the municipal or school assessments;

Payment of
grants to
rural schools.

- (h) to pay, on or before the first day of August in each year, the grant so apportioned to the rural public and separate schools in counties, to the treasurer of the county, and through him, except when he acts as sub-treasurer also, to the township treasurers for payment by them to the boards of rural public and separate school trustees upon the warrants of the inspectors of public and separate schools;

Payments of
grants to rural
schools in
districts.

- (i) subject to the Regulations, to pay the grants so apportioned to rural public and separate schools in provisional judicial districts to the respective boards of trustees on or before the first day of August in each year or in two equal instalments, the first on or before the 1st day of August and the second on or before the 1st day of December;

Apportionment
of grants to
assisted
schools.

- (j) subject to the Regulations, to apportion to public and separate school boards in poor rural districts and to the residents of lumber, mining and other settlements all sums of money appropriated for assisted schools;

Apportionment
of high school
grant.

- (k) subject to the Regulations, to apportion all sums of money appropriated for high school purposes

among the several high schools of the Province, on the basis of the salaries paid to teachers, the character of the accommodation and the value of the equipment, after providing a minimum grant for each school which is equipped in accordance with the Regulations, and notice of such apportionment shall be given to the county clerk of each county so that the county grant may be paid to the treasurer of the board of such school;

- (l) subject to the Regulations, to apportion out of any money appropriated for such purposes all sums payable under any Statute or Regulation towards the maintenance of Faculties of Education in any of the universities, the normal, model or other schools or institutes for the training of teachers, continuation schools and fifth classes, consolidated schools, technical schools, manual training, household science and agricultural departments, school gardens, kindergartens, supervised and out-door playgrounds, night schools, public libraries, travelling libraries, art schools, school libraries, art departments of schools, cadet corps and for free text books, inspection of schools, and the examination of teachers, and to apportion and distribute any other special sums that may from time to time be appropriated for educational purposes; 9 Edw. VII. c. 88, s. 6, cl. (a-l).
- (m) subject to the Regulations, to apportion all sums received by the Government of Ontario for the purposes of agricultural education from any other source than an appropriation by this Legislature among high schools, continuation schools and public and separate schools of the Province; 2 Geo. V. c. 76, s. 2.
- (n) to accept in lieu of the departmental courses and examinations prescribed for candidates for teachers' certificates such evidence of academic scholarship or professional training or experience as he may deem equivalent thereto; Accepting other qualifications in lieu of departmental examinations.
- (o) to submit a case on any question arising under *The Public Schools Act, The High Schools Act or The Separate Schools Act*, or this Act to a Judge of the Supreme Court for his opinion and decision, or by the leave of a Judge of such Court, to a Divisional Court for its opinion and decision: Submitting questions arising upon school law to Supreme Court. Rev. Stat. c. 266. Rev. Stat. c. 268. Rev. Stat. c. 270.
- (p) to determine all disputes and complaints laid before him, the settlement of which is not otherwise provided for by law, and all appeals made to him from the decision of an inspector or other school officer; Power to settle disputes and complaints.

Suspension or
cancellation
of certificates.

(q) to suspend or cancel any certificate of qualification granted by the Department;

Power to
appoint com-
missioners.

(r) to appoint as a Commissioner one or more persons, as he may deem expedient, to inquire into and report upon any school matter, with power to administer oaths to witnesses, and with all the powers which may be conferred on commissioners under *The Public Enquiries Act*; and

Rev. Stat.
c. 18.

Annual report.

(s) to report annually to the Lieutenant-Governor upon the condition of education in Ontario, with such suggestions for the improvement thereof as he may deem expedient. 9 Edw. VII. c. 88, s. 6 cl. (m-r).

Distribution
of legislative
grant between
public and
separate
schools.

(2) The Minister shall so divide the sums appropriated for the purposes mentioned in clauses (d) and (g) of subsection 1 that out of each of them there shall be allotted to the Separate Schools a sum which bears the same ratio to the whole sum appropriated as the average number of pupils who attended such schools during the next preceding calendar year bears to the whole average number of pupils who attended both Public and Separate Schools during that year, and that the residue shall be allotted to the Public Schools, and, subject to the Regulations, shall apportion among the Public Schools the sums so allotted to them and among the Separate Schools the sums so allotted to them on the respective bases mentioned in clauses d and g.

Apportionment
of grants for
certain
purposes.

(3) All money appropriated for any of the following purposes mentioned in clause l of subsection 1, that is to say:

(a) Fifth classes;

(b) Manual training, household science, art and agricultural departments;

(c) School gardens;

(d) Kindergartens;

(e) Night schools;

(f) Free text books;

(g) Other educational purposes not specially mentioned in the said clause l;

which is applied for the purposes of primary education shall be allotted, divided and apportioned as provided by subsection 2.

Meaning of
"Primary
Education."

(4) Primary education for the purposes of subsection 3 shall mean education in the Public or Separate Schools.

Disposal of
surplus.

(5) Any part of the sums appropriated for the purposes mentioned in subsection 2 and 3, and allotted to the Public Schools as provided by subsection 2, which shall not be required to pay the amounts to which such schools shall be

entitled on the respective bases mentioned in clauses *d* and *g* of subsection 1, shall lapse and become part of The Consolidated Revenue Fund, and in like manner any part of the sums allotted to the Separate Schools which shall not be required to pay the amounts to which such schools shall be entitled on the respective bases mentioned in clauses *d* and *g* of subsection 1 shall lapse and become part of The Consolidated Revenue Fund. 10 Edw. VII. c. 102, s. 1; 2 Geo. V. c. 76, s. 28.

SUPERINTENDENT OF EDUCATION.

7. The Lieutenant-Governor in Council may appoint a ^{Appointment of Superintendent.} Superintendent of Education who shall hold office during pleasure. 9 Edw. VII. c. 88, s. 7.

8. The Superintendent of Education shall have, subject to ^{Duties and powers.} the direction of the Minister and to the provisions of any Act or Regulation, the general supervision and direction of all classes of High Schools, Public Schools, Separate Schools, Technical Schools, professional training schools and the Departmental Examinations for Teachers, Teachers' Institutes, Art Schools, and School Libraries, and of the Inspectors of any of such schools, and shall make such recommendations to the Minister as he may deem expedient with respect to any matters arising out of such supervision and direction. 9 Edw. VII. c. 88, s. 8.

ADVISORY COUNCIL OF EDUCATION.

9. There shall be an Advisory Council of Education composed of ^{Advisory Council of Education, how composed.}

- (a) The President of the University of Toronto for the time being who shall be chairman;
- (b) The Superintendent of Education who shall, subject to the direction of the Minister, represent him, but shall have no vote;
- (c) Three additional members representing the University of Toronto, to be elected by the Senate of the University;
- (d) Four members representing, respectively, Queen's University, McMaster University, Ottawa University, and the Western University, one to be elected by the Senate of each University;
- (e) Two members elected by and representing the High School Teachers;
- (f) Four members elected by and representing the Public School Teachers;

(g) One member elected by and representing the Separate School Teachers;

(h) Two members elected by and representing the Public School Inspectors, and

(i) Two members elected as hereinafter mentioned and representing the School Trustees of the Province.
9 Edw. VII. c. 88, s. 9.

Function.

10.—(1) The Council shall be a consultative committee to confer with the Minister on such subjects only as he may submit to it or to its committees.

Regulating
conduct of
business.

(2) The Council shall have power, subject to the Regulations, to make rules for the conduct of its own business.
9 Edw. VII. c. 88, s. 10.

Certain persons
disqualified from
being
members.

11. No person who is directly or indirectly, alone or with another, as principal or agent, by himself or by the interposition of a third person financially interested in the preparation, publication, authorization or sale of any text book or other book or of any map or chart or other apparatus for use in any of the schools, continuation classes, departments or institutes which are under the direction and regulation of the Minister, shall be eligible as a member of the Council or sit or vote thereon, and any member of the Council who becomes so financially interested shall thereby vacate his office. 9 Edw. VII. c. 88, s. 11.

How meetings
to be called.

12.—(1) The meetings of the Council and of its committees shall be called by the Minister.

Registrar
to attend.

(2) The Registrar shall attend the meetings of the Council and shall act as secretary thereof. 9 Edw. VII. c. 88, s. 12.

Qualification
of members.

13.—(1) Every representative of a University shall be elected from among the members of the Senate of the University, and each of the other elected members of the council shall be elected from among the members of the body which he represents and shall possess the same qualifications as are prescribed by this Act for the electors of such body.

Election of
representatives
of Universities.

(2) At an election of a representative of a University every member of the Senate thereof shall have the right to vote, and in other respects each Senate shall elect its representatives in such manner as it may deem expedient.

Election of
teachers and
inspectors.

(3) The representatives of the high school, public school and separate school teachers, and of the public school inspectors, shall be elected by ballot as provided in this Act. 9 Edw. VII. c. 88, s. 13.

Triennial
elections.

14.—(1) Every elected member of the Council shall hold office for three years and until his successor is elected.

(2) A member of the Council who retains his qualification ^{Eligible for re-election.} shall be eligible for re-election. 9 Edw. VII. c. 88, s. 14.

15.—(1) Every teacher who holds a permanent certificate ^{What teachers may vote.} of qualification granted by the Minister and who is engaged in teaching in a school for which such permanent certificate qualifies such teacher shall be entitled to be entered on the list of teachers of that class and to vote at the election of a representative thereof.

(2) Every public school inspector engaged in the performance of the duties of that office shall be entitled to be entered on the list of inspectors qualified to vote for representatives of public school inspectors, and to vote at any election of such representatives. 9 Edw. VII. c. 88, s. 15. ^{What inspectors may vote.}

16. Whenever a general election of representatives is to be held the Registrar shall, as soon as may be after the receipt ^{Lists of electors.} of the respective lists of qualified electors, make up and complete and enter on separate registers an alphabetical list of the names with the post office addresses of all persons belonging to each class of electors, except the members of a University Senate, entitled to elect representatives. 9 Edw. VII. c. 88, s. 16.

17.—(1) On or before the first Wednesday of October in each year in which a general election is to be held every high school, public school and separate school inspector shall furnish to the Registrar a list of the names of all teachers in the schools in his inspectorate who are entitled to vote, with their post office addresses. ^{Lists of teachers.}

(2) On or before the same date the Registrar shall prepare a list of the public school inspectors who are entitled to vote. ^{Lists of Inspectors.}

(3) Where by reason of a vacancy in the office, illness, absence or any other cause, there is no inspector or registrar able to furnish a list of voters the Minister may require ^{Vacancy in office of inspector or registrar.} some competent person to furnish the same. 9 Edw. VII. c. 88, s. 17.

18.—(1) No teacher or inspector shall be elected who has ^{Nominations of candidates.} not been nominated in writing signed by at least six of the persons who are entitled to vote as members of the electing body to which such teacher or inspector belongs.

(2) Every nomination paper shall contain the name and post office address of each candidate nominated therein and the post office address of each person signing such nomination paper, and shall be delivered at the office of the Registrar before four o'clock in the afternoon of the first Wednesday of October in the year in which the election is to be held, but not earlier than two weeks before that day, and nomination papers received by the Registrar by post within that time shall be deemed to be duly delivered to him. ^{Nomination papers.}

Invalid nomination papers.

(3) A nomination paper which does not comply with the provisions of this section shall be null and void. 9 Edw. VII. c. 88, s. 18.

Election by acclamation.

19. If the number of candidates nominated does not exceed the number of representatives to be elected, the person or persons so nominated shall be deemed to be elected and the Registrar shall forthwith report the result with the names and post office addresses of the persons so elected to the Minister. 9 Edw. VII. c. 88, s. 19.

Proceedings when vote to be taken.

20.—(1) Where a greater number of candidates are nominated than the number of representatives to be elected by any electing body, an election shall be held and the Registrar shall send by post on or before the third Wednesday of October in the year in which the election is to be held a voting paper, Form A, to each person qualified to vote at such election together with a list giving the names and post office addresses of all the candidates nominated.

Voting papers.

Who may vote and for whom.

(2) Each person qualified to vote shall be entitled to as many votes as there are members to be elected to represent the electing body to which he belongs, but may not give more than one vote to any one candidate.

Damaged voting paper.

(3) If a voting paper is accidentally so damaged as to be unfit for use, the person to whom it was sent by the Registrar may return it to him and obtain another to be used in its place, but no second voting paper shall be furnished to any elector unless the first one is returned so damaged. 9 Edw. VII. c. 88, s. 20.

When voting papers to be delivered.

21.—(1) The voting papers shall be delivered to the Registrar between ten o'clock in the forenoon and four o'clock in the afternoon of any day between the third Wednesday of October and the first Wednesday of November, both days included, in any year in which an election is held; and any voting paper received by the Registrar by post within such dates before four o'clock in the afternoon of the last named day shall be deemed to be duly delivered to him.

Counting the votes.

(2) Upon the Thursday next after the first Wednesday of November, at ten o'clock in the forenoon, the voting papers shall be opened by the Registrar, with such assistance as the Minister may deem necessary, in presence of the scrutineers to be appointed as hereinafter provided, who shall examine and count the votes and keep a record thereof in proper books to be provided by the Minister. Any candidate at the election may be present at the opening of the voting papers or be represented by not more than one agent appointed by him in writing. No voting paper which has not been furnished by the Registrar shall be counted.

Appointment of scrutineers.

(3) The Ontario Educational Association at its Easter meeting previous to the election, or in default the President

of the University of Toronto, shall appoint one person; and such person and a person appointed by the Minister shall act as scrutineers at the election.

(4) If an elector votes for more candidates than there are ^{Voting for more than allowed.} representatives to be elected by the electing body to which he belongs his vote shall be invalid and shall not be counted.

(5) If an elector places upon his voting paper the name of ^{Elector voting for persons not candidates.} any person who is not a qualified candidate the vote in favour of any qualified candidate who is properly voted for shall not be invalidated, and such voting paper shall be acted upon as if the name of the person who was not qualified had not been inserted.

(6) Upon the completion of the counting of the votes and ^{Declaration of results.} of the scrutiny the Registrar shall declare elected as a member or members of the Council the candidate or the required number of candidates who have received the highest number of votes cast by the respective bodies of electors, and shall forthwith report the same in writing signed by himself and by the scrutineers to the Minister.

(7) Where there is an equality of votes cast for two or ^{Equality of votes.} more candidates, which leaves the election of one or more members of the Council undecided, the scrutineers shall forthwith put into a ballot box a number of similar papers with the names of the candidates having such equality of votes written thereon, one for each candidate, and the Registrar shall draw by chance from the ballot box in presence of the scrutineers one or more of the papers sufficient to make up the required number, and the person or persons whose name or names are upon the paper or papers so drawn shall be deemed to be elected. 9 Edw. VII. c. 88, s. 21.

22. The representative of each of the Universities mentioned ^{Date of election of university representatives.} in section 9 shall be elected on or before the first Wednesday in November of the year in which a general election is to be held, and notification of the names of the persons elected shall be sent forthwith to the Minister by the Registrar of each University. 9 Edw. VII. c. 88, s. 22.

23.—(1) Where default is made in the election of the ^{Default of election.} required number of representatives of any University or of any of the bodies authorized to elect representatives to the Council, at the time prescribed therefor, the Minister may fill the vacancy, but no person shall be appointed who is not a qualified member of the body which he is to represent.

(2) Where the office of a representative of any University ^{Vacancies in University representation, how filled.} becomes vacant for any cause before the expiration of his term of office, the Senate of the University shall, as soon as may be convenient, elect another representative to fill the vacancy, and if the vacancy is not so filled within one month the Minister may appoint a member of the Senate of the University to fill the vacancy.

Vacancies in representation of teachers or inspectors, how filled.

(3) Where a member of the Council representing the public school inspectors or representing one of the bodies of teachers vacates his office from any cause before the expiration of his term of office the candidate for such office who at the last preceding election had the highest number of votes next after the candidate or candidates elected, or if such candidate has already become a member or is unwilling or unable to accept the office or is the member vacating the office, the candidate at the last preceding election who received the second or next highest number of votes shall, if he is willing to accept the office, forthwith become a member in place and for the remainder of the unexpired term of the representative so vacating his office and as soon as convenient shall be notified by the Registrar that he has become a member of the Council.

Equality of votes in such cases.

(4) Where by reason of two or more of such candidates having received an equal number of votes the question of filling a vacancy cannot be decided as provided by subsection 3, it shall be decided by chance in the manner provided by subsection 7 of section 21.

When vacancy may be filled by Minister.

(5) Where there is no such candidate to fill the vacancy or none willing to accept the office, or if for any reason a vacancy cannot be filled under any of the preceding provisions, the vacancy may be filled by the Minister by the appointment of a qualified member of the body to be represented. 9 Edw. VII. c. 88, s. 23.

Election and term of office of representatives of trustees.

24.—(1) The members representing the school trustees shall be elected by the members of the trustee section of the Ontario Educational Association at an annual meeting thereof, and such election shall be conducted in all respects in such manner as the majority of the members of such section shall deem expedient.

Temporary vacancy.

(2) A vacancy occurring at any time in such representation may be filled at the next annual meeting of the Association. 9 Edw. VII. c. 88, s. 24.

Vacating office.

25. A member of the Council who ceases to reside in Ontario or to possess the required qualification, or becomes insane, or is convicted of an indictable offence shall *ipso facto* vacate his office. 9 Edw. VII. c. 88, s. 25.

SEPARATE SCHOOLS.

Powers of Minister as to separate schools.

26. Subject to the provisions of this Act every power, right and authority now by law vested in or held, had or possessed by the Minister or by the Department of Education in respect to Roman Catholic Separate Schools or to any matter or thing pertaining to or affecting such Separate Schools shall be vested in and held, had and possessed by the Minister. 9 Edw. VII. c. 88, s. 26.

REGULATIONS AND ORDERS IN COUNCIL.

27.—(1) Every Regulation and every Order in Council made under the authority of this Act or of the Acts relating to Public Schools, Separate Schools or High Schools shall be laid before the Assembly forthwith if the Assembly is then in session, and if the Assembly is not then in session, within the first seven days of the next session after such Regulation or Order in Council was made.

Regulations and Orders in Council to be laid before the Legislative Assembly.

(2) Where the Assembly at such session, or if the session does not continue for three weeks after the Regulation or Order in Council is laid before the Assembly then at the next ensuing session, disapproves by resolution of such Regulation or Order in Council, or of any part thereof, the Regulation or Order in Council, so far as disapproved of, shall have no effect from the time of the passing of such resolution.

Disapproval by Legislative Assembly.

9 Edw. VII. c. 88, s. 27.

PENALTIES.

28.—(1) A teacher, trustee, inspector or other person officially connected with the Department, or with any normal, model, public or high school or collegiate institute, or other institution which is under the management or control of the Department, shall not sell or become or act as agent for any person to sell or to promote in any way the sale of any school library, prize, or text book, map, chart, school apparatus, furniture, stationery or other article for the use of any normal, model, public, or high school, collegiate institute or other institution aforesaid or for the use of any pupil thereof, nor shall he receive directly or indirectly compensation or other remuneration or the equivalent for so doing.

No inspector, trustee, teacher, etc., to act as agent for the sale of books, maps, etc.

(2) For any contravention of subsection 1 a teacher shall incur a penalty of \$50; a trustee shall incur a penalty of \$100; an inspector shall incur a penalty of \$500; and any other person so officially connected shall incur a penalty of \$100.

Penalties for same.

(3) Any person, firm or corporation and any agent of a person, firm or corporation who employs a teacher, trustee, inspector or any other person officially connected with the Department or with any normal, model, public or high school or collegiate institute, or other institution which is under the management or control of the Minister, to sell or become or act as agent for or to promote in any way the sale of any school library, prize or text book, map, chart, school apparatus, furniture, stationery or other article for the use of any normal, model, public or high school, collegiate institute, or other institution aforesaid, or who directly or indirectly gives or pays to any such teacher, trustee, inspector or other person compensation or remuneration or the equivalent thereof for so doing shall for every such offence incur a penalty of \$500.

Penalty against business firm or agent.

Gifts, etc., to
be *prima facie*
evidence.

(4) Any gift or payment made to a teacher, trustee, inspector or other person so officially connected by any person, firm or corporation interested either as principal or agent in any such sale shall be *prima facie* evidence of a violation of this section.

Recovery of
penalties.
Rev. Stat. c. 90.

(5) The penalties imposed by this Act shall be recoverable under *The Ontario Summary Convictions Act*.

Application of
penalties.

(6) The penalties recovered under this Act shall be applied to such purposes as the Minister may direct.

Consent of
Attorney-
General to
prosecution.

(7) No prosecution for any of the penalties mentioned in this section shall be instituted without the written consent of the Attorney-General or his deputy.

Sale in ordi-
nary course
of business
excepted.

(8) This section shall not apply to sales made by a trustee who is a merchant or book seller in the ordinary and regular course of his business as such and made at his shop or place of business. 9 Edw. VII. c. 88, s. 28.

SCHEDULE.

FORM A.

(Section 20 (1).)

VOTING PAPER.

Advisory Council of Education.

Election, 19

I, _____ resident at _____, in the County of _____, do hereby declare:

(1) That the signature affixed hereunto is my proper handwriting;

(2) That I vote for the following person (or persons, as the case may be) as member (or members, as the case may be), of the Advisory Council of Education, viz.:

A.B., of _____, in the County of _____, etc.;

(3) That I have not signed any other voting paper;

(4) That this voting paper was executed on the day of the date hereof;

(5) That I vote in my right as Public School Inspector (or Public School Teacher, or Separate School Teacher, or High School Teacher, as the case may be);

(6) That my permanent professional certificate is dated _____ and numbered _____

Witness my hand this _____ day of _____ 19 _____

9 Edw. VII. c. 88, Schedule, Form A.

CHAPTER 266.

An Act respecting Public Schools.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

GENERAL.

- Short title. 1. This Act may be cited as *The Public Schools Act*. 9 Edw. VII. c. 89, s. 1.
- Interpretation. 2. In this Act:—
- “Board.” (a) “Board” shall mean a Board of Public School Trustees;
- “County Inspector.” (b) “County Inspector” shall mean the Inspector appointed for a County Inspectorate;
- “County Inspectorate.” (c) “County Inspectorate” shall mean a county or portion of a county or portions of two or more counties for which an Inspector is appointed, but shall not include a city or separated town for which an Urban Inspector is appointed;
- “District Inspector.” (d) “District Inspector” shall mean an Inspector appointed for a District Inspectorate;
- “District Inspectorate.” (e) “District Inspectorate” shall mean an inspectorate composed of territory outside of county organization;
- “Inspector.” (f) “Inspector” shall mean Public School Inspector;
- “Inspectorate.” (g) “Inspectorate” shall mean the territory for which an Inspector is appointed;
- “Minister.” (h) “Minister” shall mean Minister of Education;
- “Ratepayer.” (i) “Ratepayer” shall mean any person entered on the last revised assessment roll of the school section for public school rates and for the purposes of a school meeting shall include a farmer’s son as defined by *The Municipal Act*;
- Rev. Stat. c. 192. (j) “Regulations” shall mean regulations made under *The Department of Education Act*;
- “Regulations.” (k) “School section” and “section” shall include a part of one or more township municipalities under the jurisdiction of one public school board;
- Rev. Stat. c. 265.
- “School section.”

- (l) "School site" shall mean the land necessary for a "School site." schoolhouse, playgrounds, school garden, teacher's residence, caretaker's residence, drill hall, gymnasium and offices connected therewith;
- (m) "Secretary" or "Treasurer" shall include a secre- "Secretary" or
tary-treasurer; "Treasurer."
- (n) "Separated town" shall mean a town which does "Separated
not form part of a county for municipal purposes; Town."
- (o) "Teacher" shall mean a person holding a legal cer- "Teacher."
tificate of qualification;
- (p) "Township" shall include a union of townships; "Township."
- (q) "Township board" shall mean a board having juris- "Township
diction over all the public schools in a township; board."
- (r) "Urban Inspector" shall mean the Inspector "Urban
appointed for an urban inspectorate; Inspector."
- (s) "Urban Inspectorate" shall mean a city or separated "Urban
town not included in a county inspectorate; Inspectorate."
- (t) "Urban municipality" shall mean a city, town or "Urban
village. 9 Edw. VII. c. 89, s. 2. municipality."

3. The Regulations, though not specially referred to, shall Application of
apply to any matter or thing in this Act contained, so far as regulations.
the same are consistent with this Act. 9 Edw. VII. c. 89, s. 3.

4. Nothing in this Act authorizing the levying or collect- Exemption of
ing of rates on taxable property for public school purposes supporters of
shall apply to the supporters of Roman Catholic separate Roman
schools except that all taxable property shall continue to be Catholic
liable to taxation for the purpose of paying any liability separate
incurred for public school purposes while such property was schools.
subject to taxation for such purposes. 9 Edw. VII. c. 89, s. 4

5. All public school sections or other public school divisions Existing
shall continue as they now exist; all trustees duly elected and school
all officers duly appointed shall continue in office; and all arrangements.
agreements, contracts, assessments and ratebills heretofore continued.
duly made in relation to public schools and existing when
this Act takes effect shall continue subject to the provisions
of this Act. 9 Edw. VII. c. 89, s. 5.

PUBLIC SCHOOLS TO BE FREE.

6.—(1) All schools established under this Act shall be Public schools
free public schools, and every person between the ages of to be free.
five and twenty-one years, except persons whose parents or
guardians are separate school supporters, shall have the
right to attend some such school in the urban municipality

or rural school section in which he resides. 9 Edw. VII. c. 89, s. 6 (1); 2 Geo. V. c. 76, s. 3.

Right to attend
kindergarten
schools.

(2) Children between the ages of four and seven years may attend kindergarten schools, subject to the payment of such fees as to the board may seem expedient.

Rights of
persons having
charge of
children.

(3) Every corporation, society, agent or person having the custody of a child, and being a public school supporter, shall be entitled to send such child to the public school of the municipality or school section in which the child resides as if he were the child of a ratepayer in such municipality or school section; and every such corporation, society, agent or person shall be subject to the provisions of *The Truancy Act* in the same manner and to the same extent as a ratepayer. 9 Edw. VII. c. 89, s. 6 (2-3).

Rev. Stat.
c. 274.

SCHOOL YEAR AND HOLIDAYS.

Terms.

7.—(1) The school year shall consist of two terms, the first of which shall begin on the first day of September and shall end on the twenty-second day of December, and the second of which shall begin on the 3rd day of January and end on the 29th day of June. 1 Geo. V. c. 17, s. 55 (1).

Holidays

(2) Every Saturday, every public holiday, the week following Easter Day, and every day proclaimed a holiday by the authorities of the municipality in which the teacher is engaged shall be a holiday in public schools.

In rural school
sections.

(3) With the approval of the inspector, the board of a rural school section may substitute holidays in some other part of the year for part of the time herein allowed for Easter and midsummer vacations to suit the convenience of pupils and teachers, provided always that the same number of holidays be allowed in each year.

Determining
school terms
in districts.

(4) When there is no county organization, the inspector, subject to an appeal to the Minister, may determine the length of time, which shall not be less than six months, during which a school shall be kept open each year, and it shall be the duty of the board to keep the school open during the whole of the time so determined. 9 Edw. VII. c. 89, s. 7 (2-4).

RELIGIOUS INSTRUCTION.

Religious
exercises.

8.—(1) No pupil in a public school shall be required to read or study in or from any religious book, or to join in any exercise of devotion or religion, objected to by his parent or guardian.

Religious
instruction.

(2) Subject to the Regulations, pupils shall be allowed to receive such religious instructions as their parents or guardians desire. 9 Edw. VII. c. 89, s. 8.

SCHOOL VISITORS.

9.—(1) Judges, members of the Assembly, and members of municipal councils, shall be school visitors in the municipalities where they respectively reside, and every clergyman shall be a school visitor in the municipality where he has pastoral charge. Public school visitors defined.

(2) School visitors may visit public schools, may attend any school exercises, and at the time of any visit may examine the progress of the pupils and the state and management of the schools, and give such advice to the teachers and pupils and any others present, as they deem expedient. 9 Edw. VII. c. 89, s. 9. Their powers.

SCHOOL LANDS GRANTED PRIOR TO 24 JULY, 1850.

10. All lands which before the 24th day of July, 1850, were granted, devised or otherwise conveyed to any person or persons in trust for common school purposes and held by such person or persons and their heirs or other successors in the trust, and have been heretofore vested in the public school trustees of the school section or municipality in which such lands are respectively situate, shall continue vested in such trustees, and shall continue to be held by them and their successors upon the like trusts and subject to the same conditions and for the estates upon or subject to or for which such lands are now respectively held. 9 Edw. VII. c. 89, s. 10. School lands granted before 1850 vested in trustees for school purposes.

SELECTION OF SCHOOL SITES BY RURAL BOARDS.

11.—(1) Whenever it is deemed expedient by or it is the duty of a rural school board to erect a new school building, or where a petition in that behalf is presented by twenty-five per centum of the ratepayers of the school section, the board shall select a school site and shall thereupon call a special meeting of the ratepayers to consider the site selected by the board, whether the same be the present site or a new site; and no site shall be adopted, except in the manner herein provided, without the consent of a majority of such meeting. Selection and change of school site.

(2) In case a majority of the ratepayers present at such special meeting differ from the board as to the suitability of the site selected by it, each party shall then and there choose an arbitrator, and the inspector or, in case of his inability to act, any person appointed by him to act on his behalf, shall be a third arbitrator; and such three arbitrators or a majority of them present at any lawful meeting shall make and publish their award, and may, in and by the award, approve of the site selected by the board or may change the boundaries of the same or may select such other site as the Arbitration when trustees and ratepayers differ as to site. Award.

arbitrators or the majority of them deem more suitable for the purpose.

Reconsideration of award.

(3) With the consent, or at the request of the parties to the reference, the arbitrators, or a majority of them, shall have authority, within one month from the date of their award, to reconsider the award and within two months thereafter to make and publish a second award, which award, or the previous one, if not reconsidered by the arbitrators, shall be binding upon all parties concerned for at least five years from the date thereof; but if the boundaries of the section have been altered before any action has been taken by the board to purchase the site, proceedings under this section may be taken for the selection of a site as if no award had been made.

Duration.

Where boundaries altered.

Where failure to appoint arbitrator.

(4) If the board or the majority of the ratepayers present at a public school meeting neglect or refuse, where there is a difference in regard to the selection of a school site, to appoint an arbitrator as provided in this Act, the inspector with the arbitrator appointed shall meet and determine the matter; and the inspector in case of such refusal or neglect shall have a second or casting vote if he and the arbitrator appointed do not agree. 9 Edw. VII. c. 89, s. 11.

ACTIONS TO SET ASIDE AWARDS.

Consent of majority of ratepayers to action to set aside award.

12. No action to set aside an award made under this Act shall be undertaken by or at the instance of the board of a rural school section without the consent of the majority of the ratepayers of the section present at a special meeting duly called to consider the advisability of such action being brought. 9 Edw. VII. c. 89, s. 12.

SCHOOL WALLS AND FENCES.

Fence.

13. Any wall or fence deemed necessary by the board or required by the Regulations for the enclosure of the school premises shall be erected and maintained by the board. 9 Edw. VII. c. 89, s. 13.

ENLARGEMENT OF SCHOOL GROUNDS BY BOARD.

Enlargement of school site.

14. Where the area of a rural school site is less than is required by the Regulations the board may, without reference to a special meeting of the ratepayers, enlarge the same so as to conform to the Regulations. 9 Edw. VII. c. 89, s. 14.

ALTERATION OF SECTION BOUNDARIES.

Union of two or more sections.

15.—(1) The council of a township may pass by-laws:

(a) To unite two or more sections in the same township into one section if, at a meeting of the ratepayers in each section called by the board or by the

inspector for that purpose, a majority of the rate-payers present at each meeting request to be united;

- (i) But when all the school sections in a township have been consolidated the council may limit the number of trustees constituting the board to not less than six, after at least one month's notice in writing has been given to the secretary of the board of the intention to consider a resolution to that effect, and in such case the council may provide for the election of all trustees by a general vote of the ratepayers of the whole township or divide the township into as many districts as there are trustees to be elected and provide for the election of one trustee for each of such districts;

Constitution of board when all sections united.

- (b) To alter the boundaries of a school section, or divide an existing section into two or more sections, or to unite any part or parts of an existing section with another section or sections, or with a new section, or to unite parts of existing sections so as to form a new section, in case it clearly appears that all persons, to be affected by the proposed alteration, division or union have been duly notified in such manner as the council may deem expedient of the proposed by-law for that purpose, or of any application made to the council to do so. 9 Edw. VII. c. 89, s. 15 (1); 2 Geo. V. c. 76, s. 4.

Alteration, etc., of school sections.

- (2) No such by-law shall be passed later than the first day of June in any year nor shall, subject to the provisions as to the formation, alteration or dissolution of union school sections take effect, except as herein otherwise provided, before the 25th day of December next thereafter, and shall remain in force unless set aside as hereinafter provided, for a period of five years.

Time for passing by-law; commencement and duration.

- (3) The township clerk shall transmit a copy of such by-law immediately after the passing thereof to the board of every school section affected thereby and to the inspector.

Clerk to send copies to board and inspector.

- (4) Where part of a school section has been added to a city or town the council of the municipality in which such section is situate may pass a by-law for the readjustment of the boundaries of the remaining part of such section, notwithstanding the passing of a by-law within five years affecting the limits of such section or adjoining sections. 9 Edw. VII. c. 89, s. 15.

When part of section is added to city or town.

- (5) Any section which has been or shall be formed at any time by dividing an existing section shall be deemed to be a new section for all purposes. 1 Geo. V. c. 17, s. 19.

Status of section formed by division of section.

CONSOLIDATED SCHOOLS.

Consolidation
of sections for
consolidated
school.

16.—(1) In case the ratepayers in each of two or more rural school sections, at a special meeting duly called by the board or by the inspector for that purpose, pass a resolution to unite for the purpose of carrying on a consolidated school the council of the township in which the school sections are situate, or in case the school sections are situate in different townships then the council of each of such townships may pass a by-law to consolidate the sections for that purpose.

Corporate
name and
powers of
trustees.

(2) The trustees of such consolidated school section shall be a corporation by the name of "The Board of Trustees of Consolidated School," inserting the name of the school, and shall possess all the powers and perform all the duties and be subject to all the liabilities conferred and imposed by this Act upon the trustees of rural schools, and may also provide for the conveyance of pupils to and from school and for the cost thereof; and they may, subject to the approval of the Minister, select a name for such school.

Maintenance
when in
different
townships or
counties.

(3) Where the sections consolidated are in different townships or counties the provisions of this Act relating to union school sections shall apply to the consolidated school section for the purpose of fixing the proportion of the cost of maintaining the school to be borne by the different parts of such consolidated school section; and each township in which any part of the consolidated section is situate shall levy, collect and pay over its proportion as if such school were a union school.

Original
section to
continue to
elect trustees.

(4) The school sections so consolidated shall maintain their separate identity and each of such sections shall continue to elect trustees as if no consolidation had taken place.

Board of
consolidated
sections.

(5) The trustees so elected shall constitute the board of the consolidated school section.

Trustees of
each section
continued as
a school
corporation.

(6) The trustees elected for each of the sections so consolidated shall continue to be a school corporation and shall have the care of the school buildings and property, if any, which belonged to such section before the consolidation, and shall make such requisitions upon the board of the consolidated school as may be necessary to provide insurance and protection therefor.

Disposal of
property.

(7) The trustees of each section, if authorized by the majority of ratepayers present at a meeting duly called for that purpose, shall dispose of such school buildings and property or any part thereof in such manner and on such terms as the ratepayers may determine at such meeting.

Collection of
school rates
from
supporters in
respective
sections.

(8) The board of the consolidated school shall include the respective sums required by each separate section under subsection 6, and shall distinguish the same in their annual requisition upon the municipal council or councils for school funds,

and the sum so required by each separate section shall be levied upon and collected from the taxable property of the public school supporters in that section, and the board of the consolidated school shall pay the same as required to the trustees of the respective separate sections. 9 Edw. VII. c. 89, s. 16 (1, 3-9); 3-4 Geo. V. c. 70, s. 2.

(9) A by-law to form a consolidated school section shall not be passed later than the 1st day of June in any year nor take effect except as herein otherwise provided before the 25th day of December next thereafter, and shall remain in force unless set aside as hereinafter provided for at least three years. 9 Edw. VII. c. 89, s. 16 (10); 3-4 Geo. V. c. 70, s. 3. When by-law to be passed—duration of.

(10) If, at any time after the expiration of three years from the establishment of such school, at a special meeting duly called for the purpose, a majority of all the members of the board of the consolidated school vote in favour of the dissolution of such section, the council or councils of the township or townships in which such section is situate may pass by-laws dissolving such section, and fixing a date for the dissolution, which shall not be less than three months after passing the by-laws nor before the first day of the next calendar year thereafter. Dissolution of section.

(11) Upon such dissolution the boards of the separate sections shall have all the powers and perform all the duties of the public school boards as if no such consolidation had taken place, and they may by agreement arrange for the disposition of the property acquired for or used by the consolidated school and adjust all or any claims and matters among themselves relating to such property or school. Powers and duties of boards of separate sections after dissolution.

(12) If any claim or matter is not settled by agreement each board concerned shall appoint an arbitrator and if the number appointed be an even number those appointed shall appoint an additional arbitrator, or if they cannot agree the Minister shall appoint an additional arbitrator; and all differences among the boards shall, subject to the provisions of subsection 3 of section 20, be determined by the arbitrators in the manner provided in *The Arbitration Act*. Arbitration.

Rev. Stat. c. 65.

(13) The township clerk shall transmit copies of all by-laws passed under the provisions of this section immediately after the passing thereof to the board of every section affected thereby and to the inspector. 9 Edw. VII. c. 89, s. 16 (11-14). Copies of by-laws to be sent to boards and to inspector.

17.—(1) A board, or any five ratepayers of any one or more of the school sections concerned, may within twenty days by notice filed in the office of the county clerk appeal to the county council of the county in which such section or sections are situate against any by-law of the township council for the formation, division, union or alteration of their Appeal to county council.

school section or sections, or against the neglect or refusal of the township council, on application being made to it by a board or any five ratepayers concerned, to form, unite, divide or alter the boundaries of a school section or school sections within the township.

Time for
appeals.

(2) The time for appeal shall run from the date of the by-law complained of or from the date of the meeting at which the council refused to pass the by-law, or from the second meeting after which notice was received by the clerk of the application of the board or ratepayers asking for such by-law to be passed, as the case may be.

Appointment
of arbitrators.

(3) The county council may if it thinks fit appoint a board of arbitrators consisting of not more than five nor less than three competent persons, two of whom shall be the County Judge, or some person named by him, and the inspector, a majority of whom shall form a quorum, to hear such appeal and to form, divide, unite or alter the boundaries of the school section or school sections so far as to settle the matters complained of.

Notice.

(4) Due notice of the alteration or of the determination of the arbitrators shall be given by the inspector to the clerk of the township and to the school boards concerned.

Appeals in
territorial
districts.

(5) In a provisional judicial district the appeal shall be to a board of three arbitrators composed of the Judge of the District Court or some person named by him, the inspector and some person appointed by by-law or resolution of the township council.

(a) The notice of appeal shall be given to the clerk of the township, the inspector and the Judge.

(b) The township council at its first meeting after service of such notice upon the township clerk shall appoint their arbitrator, and the clerk of the township shall forthwith notify the inspector of such appointment.

(c) The Judge upon receipt of the notice of appeal shall notify the inspector in writing of his willingness to act as arbitrator or shall name some person to act in his stead and notify the inspector in writing of such appointment.

(d) When the board is complete the Judge or his nominee shall convene the first meeting of the board and he shall be chairman thereof.

When altera-
tions or deter-
mination of
appeal to take
effect—dura-
tion.

(6) The alterations or determination of such matters except as herein otherwise provided shall not take effect before the 25th day of December in the year in which the award is made and shall thence continue in full force for the period of five years at least, and thereafter until changed under this Act.

(7) No person shall be nominated or appointed arbitrator who is a member of the township council or who was a member at the time at which the council passed or refused or neglected to pass the by-law. 9 Edw. VII. c. 89, s. 17.

Who may act
as arbitrators.

ADJUSTMENT OF CLAIMS BETWEEN SECTIONS.

18.—(1) On the formation, dissolution, division or alteration of any school section or sections in the same township, in case the boards of the sections interested are unable to agree, the inspector and two other persons appointed by the township council shall as arbitrators value, adjust and determine in an equitable manner all rights and claims consequent upon such formation, dissolution, division or alteration between the respective parts of the township affected, and the determination of the arbitrators or of any two of them shall be final and conclusive.

Adjustment of
claims between
members of
unions in same
township.

(2) Where there are more inspectors than one the township council shall name the inspector who is to act. 9 Edw. VII. c. 89, s. 18.

Where more
inspectors
than one.

SALE OF SCHOOL PROPERTY.

19.—(1) When a school site, school house or other school property is no longer required, in consequence of the alteration or the union of school sections, the same shall be disposed of in such manner as a majority of the ratepayers in the altered or united school sections may decide at a meeting duly called for that purpose.

Disposal of
school prop-
erty when not
required.

(2) Where ratepayers are transferred from one school section to another the board of the section to which they are transferred shall be entitled for the public school purposes of the section to such a proportion of the proceeds of the sale as the assessed value of the property of the ratepayers so transferred bears to that of the whole number of ratepayers of the school section to which they belonged before the separation; and the residue of such proceeds shall be applied to the erection of a new school house or to other public school purposes in the old school section.

Application of
proceeds where
ratepayers
transferred
from one sec-
tion to another

(3) In the case of united sections the proceeds shall be applied to the public school purposes of the united section. 9 Edw. VII. c. 89, s. 19.

Application of
proceeds in
union sections.

VALIDITY OF SCHOOL ARRANGEMENTS AND PROCEEDINGS.

20.—(1) Whenever a school section or a union school section has existed in fact for three months and upwards and whether the same has been formed in accordance with the provisions of the law or not, it shall be conclusively deemed to have been legally formed and shall continue to exist, subject, however, to the provisions of this Act as far as appli-

School sections
and union
sections
confirmed.

cable, as if such section had been formed thereunder, unless in the meantime proceedings have been taken calling in question the legal status of such section and notice thereof has been given to the persons who according to the practice of the court in which the proceedings are taken ought to be served with notice thereof, and such proceedings shall result in its being determined that such section has not been legally formed.

No proceedings invalidated unless where substantial injustice.

(2) No proceeding in or in relation to the formation, alteration or dissolution of a rural school section or of a union school section, and no arbitration or award in reference thereto or as to any matter which by the provisions of this Act are to be or may be determined by arbitration shall be deemed to be invalid or shall be set aside because of the failure to comply with the provisions of this Act applicable to such proceeding, arbitration or award unless in the opinion of the tribunal before which such proceeding, arbitration or award is called in question the same, if allowed to stand, will cause substantial injustice to be done to the persons affected thereby or some of them.

Jurisdiction of county or district judge.

(3) Should any question arise touching the validity of the proceedings in or in relation to the formation, alteration or dissolution of a rural school section or of a union school section, or touching the selection, adoption or change of a school site, or touching any by-law of the council of any municipal corporation in any way relating to such matters or any or either of them, or touching any arbitration or award heretofore or hereafter had or made under the provisions or authority of this Act, the same shall not be raised or determined by action or proceeding in the Supreme Court, but shall be raised, heard and determined upon a summary application to the Judge of the County or District Court of the county or district in which such school section or some part thereof is situate, and the decision of such Judge shall be final and conclusive unless special leave to appeal therefrom shall be given by the Supreme Court or a Judge thereof, and if such leave be given an appeal shall lie to the Supreme Court upon questions of law only, upon and subject to such terms and conditions as the Court or Judge giving the leave shall prescribe.

Appeals where judge is arbitrator.

(4) Where the question touches an arbitration or award to which the Judge has been a party, the application shall be heard and determined by the Judge of the county or district court of the adjoining county or district which has the largest population according to the last Dominion census. 9 Edw. VII. c. 89, s. 20.

UNION SCHOOL SECTIONS.

What unions may be formed.

21.—(1) A union school section may be formed between parts of two or more adjoining townships, or a union may be formed between parts of one or more townships and an

adjoining urban municipality not being a city or a separated town, and in such case the union shall be considered an urban municipality. 9 Edw. VII. c. 89, s. 21 (1).

(2) Except where the section is an urban municipality, the board shall be a corporation under the name of "The Board of Public School Trustees of Union School Section numbers in the ." 3-4 Geo. V. c. 70, s. 4. Corporate name.

(3) A union school section may be formed, altered or dissolved on the petition of five ratepayers from each of the municipalities concerned to their respective councils asking for the formation, alteration or dissolution of the section. Procedure for formation, alteration or dissolution of union.

(4) Each of the councils so petitioned may appoint an arbitrator who shall not be a member of the council, and notice of the appointment shall be sent by the respective clerks to the inspector or inspectors of the district or districts concerned who shall also be arbitrators. Appointment of arbitrators.

(5) A council may act upon a petition addressed to the councils concerned or to any two or more of them jointly if such petition is signed by five ratepayers of the municipality acting thereon. Petition to council.

(6) Where there would otherwise be an even number of arbitrators the Judge of the County or District Court, or some person named by him, shall be added, and where the arbitration affects two or more counties or districts the Judge of the County or District Court of the county or district which has the largest population according to the last Dominion census, or some person named by him, shall be added. Where even number of arbitrators appointed county judge to act.

(7) The arbitrators, or a majority of them, may make and publish the award. Majority award.

(8) The first meeting of the arbitrators shall be called by the senior inspector who shall give ten days' notice in writing of such meeting to the clerks of the municipalities concerned who shall forthwith notify the arbitrators appointed by their respective councils. First meeting of arbitrators.

(9) Where the arbitrators determine upon the formation of a new union section, or upon the alteration of the boundaries of an existing union section, they shall in their award set forth the specific parcels of land to be included in such new union section or in such altered section as the case may be. Award, what to contain.

(10) In the event of the transfer of any land from an existing union section to some other section the arbitrators shall in their award set forth to what other section such transfer shall be made. Award to set out land transferred.

(11) Where the arbitrators determine upon the dissolution of an existing union section, they shall set forth in their In case of dissolution.

award the section or sections to which the land composing such union section shall be attached.

Reorganizing
union section.

(12) Where the arbitrators are of opinion that it would be in the interests of the parties concerned, and that it is practicable so to do, they may form part of the territory of a section into a new section, or form a new union section, and they shall indicate the land of which such section or union section shall be composed, and the remainder of the union section shall be disposed of as herein provided.

Fixing pro-
portion of
liabilities.

(13) Where a new union section is formed or an existing union section is altered the arbitrators shall determine and fix the proportion which the part in each municipality shall be liable to contribute towards the erection of the school house and the maintenance of the school and other necessary expenses.

Adjustment
of claims.

(14) The arbitrators shall value and adjust, in an equitable manner, all rights and claims consequent upon the formation, alteration or dissolution of a union section between the respective municipalities, school sections and ratepayers concerned, and shall also determine in what manner and by what municipality or municipalities or by what parts thereof the same shall be paid and the money to be paid by one part of the municipalities or school sections concerned to the union section so formed or altered, and the disposition of the property of the union section, and any payment by one part to the other and the right of any ratepayer affected by the award.

Calling first
meeting to
elect trustees.

(15) Where a new union section is formed the inspector authorized under subsection 8 to call the first meeting of the arbitrators shall call the first meeting of ratepayers for the election of trustees, and shall proceed as the clerk of the municipality is directed to proceed in the case of the formation of a new section under this Act.

Not to take
effect till the
25th of Dec-
ember except
for certain
purposes.

(16) Such union, alteration or dissolution, except as herein otherwise provided, shall not take effect until the 25th day of December after the award or a certified copy thereof is filed with the clerks of the municipalities concerned, but the trustees may at any time after their election raise money for and may acquire a school site, erect school buildings and provide school equipment.

Reconsidera-
tion of union
school section
award.

(17) A union school section shall not be altered or dissolved for a period of five years after the award has gone into operation, whether the award does or does not change the boundaries of existing sections, but nothing herein shall prevent a municipal council from enlarging the boundaries of a union section as may be deemed expedient; and two-thirds of the ratepayers of a union section may, at the expiration of three years from the date of its formation, petition the municipal council or councils concerned for a reconsideration of the award for the formation of the section, and the

proceedings shall be the same as in the case of a petition under subsection 3.

(18) Where an award, whether for or against the formation of a new union school section, has not been acted upon the proceedings mentioned in subsection 1 may be taken at any time after the expiration of three years after the award was made. New arbitration after three years.

(19) Where an award, whether for or against the formation of a new union school section, has been adjudged illegal or void the proceedings mentioned in subsections 1 and 3 may be taken at any time after the expiration of the time for appealing against the judgment or decision or after the disposition of any appeal therefrom. New arbitration when award set aside.

(20) In a provisional judicial district,

Case of provisional judicial district.

(a) A union school section may be formed of an organized township or part thereof and an unorganized township or locality, or between a town and a part of an organized township or an unorganized township or locality, and may be altered or dissolved, and in such case the petition of the ratepayers of the part of such proposed union section not included in the organized township shall be presented to the inspector.

(b) The arbitrators shall consist of a person appointed by the council of the organized township, the inspector of the district and the Judge of the district court, or some person named by him, and they shall have all the powers of the board of arbitrators mentioned in the preceding subsections of this section, all of which, so far as applicable, shall apply to the subject matter of this subsection.

(21) The powers conferred by this section may be exercised notwithstanding that the period fixed by subsection 2 of section 15 or by subsection 1 of section 30 has not expired. Alterations of boundaries not to affect power to form unions.

(22) Where within the period of five years mentioned in subsection 17 the assessment of the union school section is materially altered by reason of any land therein becoming exempt from taxation for public school purposes, such union school section notwithstanding the provisions of that subsection may be altered or dissolved. Alteration or dissolution when assessment materially altered. 3-4 Geo. V. c. 70, s. 5.

22.—(1) Where the territory which it is proposed to form into a union section, or where the union section which it is proposed to alter or dissolve lies wholly within a county, the board or any five ratepayers in the territory or union section concerned, or the inspector or inspectors, may within one month after the making thereof appeal in writing to the county council from any award made by the arbitrators either Appeal relating to union school within a county.

for or against the formation, alteration or dissolution of such section or against the neglect or refusal of the township council or councils concerned to appoint arbitrators as provided in section 21.

Appointment
of arbitrators
by county
council.

(2) On receipt of such appeal the county council shall have power to appoint not more than three arbitrators who shall neither be ratepayers in the territory or school section concerned, nor members of the municipal councils concerned, and such arbitrators shall have all the powers of arbitrators appointed under section 21, and the decision of a majority of them shall be final and conclusive.

Calling first
meeting of
arbitrators.

(3) The first meeting of such arbitrators shall be called by the county clerk. 9 Edw. VII. c. 89, s. 22.

Appeal relat-
ing to union
school within
two or more
counties.

23.—(1) Where the territory which it is proposed to form into a union section, or where the union section which it is proposed to alter or dissolve lies in more than one county the board or any five ratepayers in the territory or union section concerned, or the inspector or inspectors, may within one month after the making thereof appeal to the Minister from any award made by arbitrators for or against the formation, alteration or dissolution of such section, or against the refusal or neglect of the township council or councils concerned to appoint arbitrators.

Powers of
Minister.

(2) The Minister shall have power to alter, determine or confirm such award, or where no award has been made then at his discretion to appoint not more than three arbitrators who shall have all the powers of arbitrators appointed under section 21, and the decision of a majority of them shall be final and conclusive.

First meeting
of arbitrators.

(3) The first meeting of the arbitrators shall be called by the Minister. 9 Edw. VII. c. 89, s. 23.

Collection of
rates in
union school
sections.

24. The collectors of each municipality in which a part of a union section is situate shall collect the school rates for that part; and the amount collected from the ratepayers in each part of the union section shall be paid by the respective collectors to the treasurer of the municipality in which such part of the union section is situate, and the treasurer shall pay over the same without any charge or deduction to the board entitled thereto. 9 Edw. VII. c. 89, s. 24.

Union sections
as a con-
sequence of a
division of
township.

25. Where a township is divided for municipal purposes all school sections which, in consequence of such division, are situate partly in each of the newly formed municipalities shall be deemed union sections until otherwise altered under the provisions of this Act. 9 Edw. VII. c. 89, s. 25.

Election of
trustees, and
inspection
of union
school sections.

26. Every union school section shall, for the purpose of the election of trustees, be deemed one section, and in respect to inspection shall be deemed to be within the municipality in which the school house is situate, or if there are two or more

school houses then in that municipality within which a school house is situate which has the largest amount of property assessed for public school purposes. 9 Edw. VII. c. 89, s. 26.

27. Where a union school section includes an urban municipality divided into wards and part of an adjoining township the board shall by resolution determine in which ward or wards the ratepayers of the township shall vote for the election of school trustees and on other school questions, and in the absence of any such resolution such part of the township shall be considered for all election purposes as attached to the adjacent ward, and if two or more wards are adjacent any such ratepayer may vote in either of such wards 9 Edw. VII. c. 89, s. 27.

Where township ratepayers to vote when urban municipality divided into wards.

28.—(1) Where part of a township becomes incorporated as or is annexed to and becomes part of an urban municipality such part shall for all school purposes be deemed to be part of the urban municipality, provided that when the part incorporated or annexed comprises or includes part only of a school section the municipalities interested, unless determined by agreement after the incorporation or annexation, shall each appoint an arbitrator who, with the Judge of the county or district court, shall value and adjust in an equitable manner the rights and claims of all parties thereby affected, and shall determine by which municipality or part thereof the same shall be paid or settled.

Where part of a township is annexed to urban municipality.

Arbitration to determine rights.

(2) The award shall be final and conclusive, and any money found due, either by agreement or under the award, shall be deemed public school money and shall be payable out of the property taxable for public school purposes in that part of the school section situate within the indebted municipality.

Effect of award.

(3) The provisions of section 44 shall not apply to the money required to be paid under the award or agreement and debentures may be issued to be payable out of the property so taxable without calling a special meeting of the electors and upon the terms and conditions set forth in a by-law of the council of the municipality.

Issue of debentures.

(4) Subject to the provisions of this Act as to the alteration of school boundaries and the formation of union school sections, where a part of a township so incorporated or annexed includes part only of a school section the part remaining shall constitute a school section by the same name as before the incorporation or annexation, and the school corporation shall continue, and the trustees who are in office at the time of such incorporation or annexation shall continue in office until their successors are elected and shall be the Board of Public School Trustees for the part of the section not so included in the urban municipality. The trustees may resume office or be elected for the section in case the Board has been disbanded, and action may be taken by the township council

Status of the part of a school section which is not annexed.

at any time, as provided by this Act, to readjust the boundaries of the portion of the section that is not included in the urban municipality.

Disposition of
assets and
liabilities
upon union of
municipalities.

(5) Where urban municipalities become united all the assets and liabilities of the board of each municipality shall be vested in and assumed by the board of the united municipality. 9 Edw. VII. c. 89, s. 28.

MAINTENANCE OF UNION SCHOOLS.

Assessors to
determine
proportion.

29.—(1) As often as the assessment of the part of a union section situate in one municipality has increased or decreased to the extent of ten per cent. of the amount of its assessment at the date of the last equalization of assessments and has maintained such increased or decreased assessment for the second consecutive year, and, in any case, at the expiration of five years from the last equalization of assessments, the assessors of the municipalities in which a union section is situate shall, after they have completed their respective assessments and before the first day of June, meet and determine what proportion of the annual requisition made by the board for school purposes shall be levied upon and collected from the taxable property of the public school supporters of the union section situate in each of the municipalities in which such section lies. 9 Edw. VII. c. 89, s. 29 (1).

Where
assessment
materially
altered by
exemptions.

(2) Where the assessment of a union school section is materially altered by reason of any land therein becoming exempt from taxation for school purposes the assessors shall, at their next meeting, revise the equalization. 3-4 Geo. V. c. 70, s. 6.

Calling
meeting of
assessors.

(3) The meeting of the assessors shall be called by the assessor of the municipality in which the school-house is situate.

By whom.

(4) Where there are more assessors than one the head of the municipal corporation shall name the assessor who shall act.

Notice of
determination.

(5) Notice of the determination shall be given forthwith to the secretary of the board and to the clerk of each municipality.

Arbitration
where assess-
ors disagree.

(6) Where the assessors disagree, the inspector in whose inspectorate the union section is situate, and the assessors shall be arbitrators to determine the matter and report to the secretary of the board and to the clerk of each municipality, on or before the first day of July.

When school
section lies in
two counties.

(7) Where the union section is composed of parts of two adjoining counties, then on the disagreement of the assessors the inspector of the county in which the school-house of the section is situate shall act with the assessors.

(8) The decision of a majority of the arbitrators shall be ^{Duration of decision of assessors.} final and conclusive until the next equalization of assessments takes effect.

(9) The assessors or, in the case of an arbitration, the arbitrators on the request in writing of the inspector or of five ^{Reconsideration of award.} ratepayers may within one month after the report of the determination or award to the secretary of the board correct any omission or error in the terms in which the determination or award is expressed.

(10) The costs of proceedings under this section, including ^{Cost of assessors and arbitrators.} the fees of assessors and arbitrators, shall be paid by the municipalities in the same proportion as the equalized assessments bear to each other. 9 Edw. VII. c. 89, s. 29 (2-9).

CONFIRMATION OF BY-LAWS AND AWARDS.

30.—(1) A by-law of a municipal council for forming, ^{Certain by-laws and awards to be valid unless notice to quash given.} altering or dissolving a school section, and an award made by arbitrators appointed to consider an appeal from a township council with respect to any matter authorized by this Act shall be valid and binding for a period of at least five years, or, in case of a consolidated school section, for a period of at least three years, notwithstanding any defect in substance or form, or in the manner or time of passing or making the same unless notice of an application to quash such by-law or to set aside such award is given to the township clerk within one month after the publication of such by-law or award, and the same is subsequently quashed or set aside.

(2) Such by-law or award shall be deemed to be published ^{What deemed publication of by-law.} when a copy thereof is served upon the secretary of each board of trustees affected thereby. 9 Edw. VII. c. 89, s. 30.

(3) Where within the period of five years mentioned in ^{Re-adjustment when assessment materially altered.} subsection 1 the assessment of a school section is materially altered by reason of any land therein becoming exempt from taxation for school purposes the council may notwithstanding the provisions of subsection 1 make such readjustment of the school section as may be deemed requisite. 3-4 Geo. V. c. 70, s. 7.

ESTABLISHMENT OF SECOND SCHOOLS IN SECTIONS WHERE ROADS IMPASSABLE.

31.—(1) Where it appears to the Minister that owing to ^{Establishment of second school.} the condition of the roads or other causes the public school in any school section in any township is inaccessible, during certain months of the year, to any of the pupils entitled to attend such school, the Minister may require the council to form a new school section or the board to provide a second school in their section.

Determining months in which second school to be open.

(2) The Minister may provide that the second school be opened during such months of the year as he may deem necessary and may prescribe the area from which pupils shall have the right to attend such second school.

Grant.

(3) Any grant in either case from the assisted school fund shall be supplemented by equal amounts from the townships and county councils.

Attendance at school when second school closed.

(4) The provisions of subsection 1 of section 7 shall not apply to a school established under this section, but nothing herein shall relieve the pupils attending such second school from attendance at the public school of the school section during those periods of the school year in which the second school is closed, nor relieve the board of such school section from the duty of providing school accommodation for such pupils during such periods. 9 Edw. VII. c. 89, s. 31.

SECTIONS IN UNORGANIZED TOWNSHIPS.

Formation of school sections.

32.—(1) The inspector may form an unorganized township or part of an unorganized township or parts of two or more adjoining unorganized townships into a school section.

Limits of section.

(2) The section shall not, in length or breadth, exceed five miles, and, subject to this restriction, the boundaries may be altered by the inspector from time to time.

Petition.

(3) A school section shall not be formed or altered except on the petition of five heads of families resident within the territory affected.

Inspector may transfer land to contiguous school section.

(4) The inspector on the petition of any head of a family who has a child attending school and who lives in one school section on land contiguous to another school section may alter the boundaries of such sections^a so as to transfer such land from one section to the other, but such transfer shall not relieve the land from any taxation required to meet a liability incurred prior to the transfer, nor shall it be made unless in the opinion of the inspector it is more convenient for the child to attend the school in the section to which the transfer is requested. 9 Edw. VII. c. 89, s. 32 (1)-(4).

Exemption from rate on account of distance.

(5) A person whose place of residence is distant more than three miles by the nearest public highway from the school of the section shall be exempt from all rates for school purposes unless a child of such person attends such school; but this exemption shall not apply to lands liable to taxation for school purposes owned by such person within such distance, nor to the lands of non-residents, nor to the lands of residents in the section who have no children of school age. 9 Edw. VII. c. 89, s. 32 (5); 1 Geo. V. c. 17, s. 55 (2).

Election of school trustees.

(6) After the formation of a section any two of the petitioners may, by notice posted for at least six clear days in not less than three of the most public places in the section, appoint

a time and place for a meeting for the election of three school trustees for the section.

(7) The trustees elected at such meeting, or at any subsequent school meeting of the section, shall have the powers and be subject to all the obligations of public school trustees, and may at any time after their election take the proper steps, in accordance with the provisions of this Act, to raise funds for and purchase a school site and erect school buildings and provide equipment for the school, but in other respects any alteration of the boundaries of a section shall go into operation on the 25th day of December next after such alteration and not before. 9 Edw. VII. c. 89, s. 32 (6), (7). Trustees' powers and obligations.

33.—(1) The inspector shall divide the school sections into groups of three or as near thereto as practicable, and shall notify the secretary of each section of the group to which it belongs, and the grouping may be changed from year to year as the inspector may direct. Sections to be divided into groups.

(2) The treasurers of the boards in a group shall constitute a court for the revision of the school assessment rolls of the sections in the group, and for the hearing and determination of any appeals against the same, and the members of such court shall be paid reasonable travelling expenses by their respective boards for their attendance. Court of Revision.

(3) Where from the sparseness of settlements it would be inconvenient for a court of revision to meet for the revision of the assessment roll of any section, the inspector on the request of any board may assume the functions of a court of revision for the section on behalf of which the request is made, and all the proceedings of the inspector in the matter shall be subject to the provisions of this Act and shall have the same effect as if made in a court of revision constituted under subsection 2. 9 Edw. VII. c. 89, s. 33. When inspector to act as court of revision.

34.—(1) The board shall, annually, at their first meeting and not later than the first day of March in each year appoint an assessor, who may be one of themselves, to prepare an assessment roll for the section, and the secretary shall submit a certified copy of the same to the proper court for revision. Annual assessment roll.

(2) The assessor shall notify every person assessed by leaving a notice containing the particulars of his assessment at his place of residence, or, if a non-resident, by mailing the same by registered post to his last known address, or, if his address is unknown, by posting up the same in the post office nearest to the land assessed. Notice of assessment.

(3) The assessor shall be subject to the provisions of *The Assessment Act* with regard to the equitable rating of all taxable property in the section, and shall, before returning his assessment roll to the secretary of the board, attach thereto The Assessor to make oath.

Rev. Stat. c. 195. a certificate signed by him and verified upon oath according to the form prescribed in *The Assessment Act*.

Return of roll. (4) The assessor shall return the assessment roll to the secretary not later than the first day of June of the year in which the assessment is made.

Appeal against assessment. (5) A copy of the roll so certified shall be open to inspection by all persons interested at some convenient place in the section, notice whereof signed by the secretary shall be posted up by him in at least three of the most public places in the section, and shall state the place and the time at which the court will hear appeals against the assessment.

Posting up notice. (6) The notice shall be posted up for at least three weeks before the time appointed for hearing the appeals, and shall be mailed by registered post to the last known addresses of non-resident ratepayers.

Manner of appeal. (7) Subject to the provisions of clauses (a) and (b), all appeals and the proceedings thereon shall be the same as nearly as may be as in the case of appeals to a court of revision from municipal assessments, and the court of revision shall have the same powers as municipal courts of revision.

(a) The notice of appeal shall be given to the treasurer of the board within one month after the delivery, mailing and posting up of the notice provided for by subsection 2.

(b) The court may appoint a competent person to be its clerk for each section or one for all the sections.

School census. (8) The assessor when making his assessment shall enter in a book to be provided by the board the name, age and residence of every child between the ages of 8 and 14 years resident in the section and the name and residence of such child's parent or guardian and shall with the assessment roll return the book to the secretary.

Census of persons entitled to attend school. (9) The assessor shall make a census of all the children in the section between the ages of 5 and 16 years and between the ages of 5 and 21 years and shall make a return thereof to the secretary with the assessment roll; and the secretary shall include the same in his annual report to the inspector.

Confirmed roll binding. (10) The roll, as finally passed and signed by the chairman of the court of revision, shall be binding upon the trustees and ratepayers of the section until the roll for the succeeding year is passed and signed as aforesaid. 9 Edw. VII. c. 89, s. 34.

Assessment of portion of unorganized township forming, with organized municipality, a union school section. 35.—(1) Any part of an unorganized township which forms part of a union section, the remainder of which is an organized municipality or part of an organized municipality, shall for public school purposes be deemed to be annexed to such organized municipality, and the officers thereof shall make all assessments and collect all taxes and do all such

other acts and perform all such duties and be subject to the same liabilities with respect to the part of the unorganized township forming part of such union section as with respect to any part thereof, which lies within the organized municipality. 9 Edw. VII. c. 89, s. 35.

(2) Where a union section is composed of a town in a ^{Idem.} provisional judicial district and of a portion of any other ^{Where joined with a town in a judicial district.} organized municipality and any part of an unorganized township the part of the unorganized township included in the school section shall, for public school purposes, be deemed to be annexed to the town and form part thereof, and the officers of the town shall make any assessments and collect all taxes and do all such other acts and perform such duties and be subject to the same liabilities with respect to the part of the unorganized township forming part of such union section as with respect to the town. 2 Geo. V. c. 76, s. 5.

36.—(1) In unorganized townships the board of a section may issue debentures for the purchase of a school site and the erection of a school-house, for such amounts and for such ^{Issuing debentures for school sites and houses} term of years, not exceeding thirty, as the board sees fit, or the board may direct that the principal and interest shall be repayable by annual or other instalments in the manner provided by *The Municipal Act*, provided that the issue of the debentures has been sanctioned at a special meeting of the ratepayers of the section. ^{Rev. Stat. c. 192.}

(2) The debentures shall be signed by the trustees and shall be sealed with the corporate seal of the board, and shall ^{Signing and sealing debentures.} be a charge upon the taxable property of the public school supporters of the section. 9 Edw. VII. c. 89, s. 36.

(3) The Lieutenant-Governor in Council may for and in the name of the Province guarantee the payment of any ^{Provincial guarantee of such debentures.} debentures issued by a school board under the authority of this section. 3-4 Geo. V. c. 70, s. 8.

37.—(1) The board may appoint some competent person ^{Appointment and duties of school collector.} who may be a member thereof to collect the rates imposed by them upon the ratepayers of their section, or the sums which the inhabitants or others may have subscribed, and may pay to such collector at the rate of not less than five nor more than ten per centum on the moneys collected by him; and every collector shall give security satisfactory to the board and the security shall be lodged for safe keeping with the inspector.

(2) Every collector shall have the same powers in collecting the school rate or subscriptions, and shall be under the same ^{Powers and liabilities of school collector.} liabilities and obligations and proceed in the same manner in the section or township, as a township collector in collecting rates in his township as provided by *The Assessment Act*. ^{Rev. Stat. c. 195.}

(3) The collector shall, on or before the first day of June in the year following the year in which a school rate becomes due and payable, make a return to the sheriff of the county or ^{Return of arrears of taxes in unorganized territory.}

district showing each lot or parcel assessed upon which the school rates have not been fully paid, the name of the person assessed as owner or occupant and the amount of school rates chargeable against the lot or parcel and in arrear at the date of such return with the year for which the rates so in arrear were imposed.

Entry in
sheriff's book.

(4) The sheriff shall enter in a book to be kept by him for that purpose the particulars furnished by the collector.

Payments of
arrears there-
after.

(5) The collector shall not receive any payment on account of school rates so in arrear after the expiration of two years from the date when the same became due, but in the case of payments made before the expiration of such period the collector shall forthwith notify the sheriff thereof and the sheriff shall enter such payment against the proper lot or parcel in the book kept by him.

When arrears
to be paid to
sheriff.

(6) After the expiration of such period all such arrears shall be payable to the sheriff who shall enter all payments in the book kept by him and shall return the amount paid to the treasurer of the board.

Sale of land
for arrears.

(7) When it appears from the entries in the book kept by the sheriff that any school rate is in arrear for three years from the 31st day of December in the year in which the same became payable the sheriff shall proceed to collect the same by the sale of the lands assessed, and the procedure in relation to such sale and the provisions applicable to the redemption of lands thereafter and to deeds to be given by the sheriff to tax purchasers shall be the same as nearly as may be as in the case of the sale of lands for arrears of taxes in organized municipalities. 9 Edw. VII. c. 89, s. 37.

SCHOOLS IN UNSURVEYED DISTRICTS.

Schools in
unsurveyed
districts.

38.—(1) In any part of Ontario not surveyed into townships five of the inhabitants thereof who are twenty-one years of age may call a public meeting of such inhabitants, by giving such notice of the meeting as the public school inspector shall direct.

Election of
trustees.

(2) The meeting may elect three of the inhabitants to serve as public school trustees, and the trustees so elected shall have all the powers of trustees in unorganized townships, and shall in all other respects be subject to the provisions of this Act.

Notice to the
Minister of
Education.

(3) On receipt of a report from the inspector that a public school has been established and suitable accommodation and equipment provided for public school purposes the Minister may pay over to the trustees, out of the appropriation made by this Legislature for public schools, such sum of money for the maintenance of such school as may be approved by the Lieutenant-Governor in Council. 9 Edw. VII. c. 89, s. 38.

EXEMPTIONS.

39. No by-law of a municipal council passed after the 14th day of April, 1892, or hereafter passed, for exempting any part of the rateable property in the municipality from taxation in whole or in part shall be held or construed to exempt such property from school rates of any kind. 9 Edw. VII. c. 89, s. 39.

Exemption by-laws not to include school taxes.

RETURN OF ANNUAL CENSUS.

40.—(1) The clerk of every county shall make a return to the Minister showing the population of each local municipality within the county, and the clerk of every city and of every separated town shall make a return showing the population of such city or town, as shown by their respective assessment rolls for the previous years, such returns to be made on or before the first day of April in each year.

Clerks to make returns of population.

(2) The clerk of every county shall furnish the inspector forthwith on demand with such school statistics in regard to assessments as the Minister may direct. 9 Edw. VII. c. 89, s. 40.

Clerk to furnish inspector with school statistics.

41.—(1) The clerk of every township shall give to the inspector when requested by him, a statement of the assessed value of each school section as shown by the last revised assessment roll, and at the request of any board shall furnish them with a statement showing the several parcels or lots of land composing the school section, the assessment of each parcel or lot and the amount of taxes entered on the collector's roll against each parcel or lot, and the number of children between the ages of five and sixteen years in each section, and the cost of preparing this statement shall be paid by the board applying for the same.

Clerk to give copy of assessment to Inspector.

(2) The clerk of every township in which a section is situated which is wholly or in part united to an urban municipality, shall give to the clerk of the urban municipality such information as may be required regarding population and assessment in connection with such section. 9 Edw. VII. c. 89, s. 41.

Statement to be furnished to urban municipality by clerk of township.

APPORTIONMENT OF INVESTMENTS BY TOWNSHIPS.

42. The council of every township may by by-law apportion among the school sections in the township the principal or interest of any investments held by the corporation for public school purposes according to the salaries paid to the teachers engaged by the respective boards during the past year, or according to the average attendance of pupils in each section during the same period. 9 Edw. VII. c. 89, s. 42.

Apportionment of school money by township councils.

BORROWING POWERS.

In Urban Municipalities.

Debentures
for school
purposes.

43.—(1) The council of an urban municipality, on the application of the board, may pass a by-law for borrowing money by the issue and sale of debentures for any one or more of the following purposes:

- (a) The purchase or enlargement of a school site;
- (b) Obtaining and conveying, from beyond the school premises if necessary, a supply of water;
- (c) The erection of a school-house, drill hall, gymnasium or teacher's residence, or any addition to the same or any of them;
- (d) Repairs or improvements of the school property;
- (e) The purchase of furniture, furnishings, school apparatus, a school library and other equipment;

and it shall not be necessary that the by-law shall be submitted to the electors for their assent. 9 Edw. VII. c. 89, s. 43 (1); 2 Geo. V. c. 76, ss. 6, 7.

Chargeable
only on pro-
perty of
public school
supporters.

(2) The debentures and the money to be raised annually for payment thereof shall be chargeable only upon the property of ratepayers who are supporters of public schools. 9 Edw. VII. c. 89, s. 43 (2).

Submission
of question
to vote of
electors.

Rev. Stat.
c. 192.

(3) Where the council refuses to pass such a by-law the question shall be submitted by the council, if requested by the board, to the vote of the electors qualified to vote under *The Municipal Act* on money by-laws and who are supporters of public schools, in the manner therein provided, and on the assent of such electors being obtained the council shall pass the by-law and issue such debentures; and it shall not be necessary that the by-law shall be submitted to the electors for their assent. 9 Edw. VII. c. 89, s. 43 (3); 2 Geo. V. c. 76, s. 7.

Form and
term of
debenture.

Rev Stat.
c. 192.

Where appli-
cation is made
by urban
board and
part of
township
attached.

Where money
borrowed
proves
insufficient.

(4) The debentures may be for such amount and for such term of years, not exceeding thirty, as the council sees fit, or the council may make the principal and interest payable by annual or other instalments, in the manner provided in *The Municipal Act*.

(5) The application for the issue of debentures by the board of an urban municipality to which part of an adjoining township is attached shall be subject to the provisions of this section. 9 Edw. VII. c. 89, s. 43 (4-5).

(6) Where the amount provided by a by-law passed under the authority of this section proves insufficient for the purposes for which the by-law was passed the council may pass another by-law for borrowing the remainder of the money

required for such purposes; and all the provisions of this section shall apply to such by-law. 3-4 Geo. V. c. 70, s. 9.

In Rural Sections.

44.—(1) On the application of a rural school board for the issue of debentures for any of the purposes mentioned in the next preceding section the council of the township shall pass a by-law therefor, and shall forthwith issue debentures to be payable out of the taxable property of the public school supporters of the section in such annual amounts as they may deem expedient, provided always that the proposal for the loan has been submitted to and sanctioned at a special meeting of the ratepayers called for the purpose.

Township school debentures.

(2) The application for a loan for any of such purposes shall be made by the board of a union school section to the council of the municipality within which the school-house or school site of such section is situate, and all debentures for the payment of the loan shall be issued by the corporation of such municipality.

To what council applications for loans to be made.

(3) The application must be sanctioned by the ratepayers of the school section in the manner set forth in subsection 1.

Sanction by ratepayers.

(4) The corporation or corporations of any other municipality or municipalities forming, or any part of which forms, part of the union section shall, on the requisition of the clerk of the municipality by which the debentures were issued, pay its or their share of the loan, including interest, as it comes due according to its or their liability as determined by section 29.

Municipality forming part of union section to pay its proportion.

(5) The proportion of the moneys payable by the corporation of each of the municipalities shall be payable out of the taxable property of the public school supporters therein lying within the section.

How payable.

(6) The expenses of preparing and publishing any by-laws or debentures, and all other expenses incident thereto, shall be paid by the section on whose behalf such debentures were issued, and the amount of such expenses may be deducted from any school rates collected by the municipal council for such section.

Expenses of publishing by-laws.

(7) Notwithstanding any alteration which may be made in the boundaries of a section the taxable property of the public school supporters situate therein at the time when such loan was affected shall continue to be liable for the rate which may be levied for the repayment of the loan. 9 Edw. VII. c. 89. s. 44.

Liability for loan where boundaries altered.

45.—(1) A rural school board may require the council to raise by one yearly rate such sums as may be necessary for the purchase or enlargement of a school site, or the erection of a school-house, or an addition thereto, or a teacher's residence.

School property may be paid for by one special rate.

Council not to
levy more
than one rate
except in
certain cases.

(2) A municipal council shall not levy or collect during any one year more than one school rate except for one or more of the purposes mentioned in subsection 1. 9 Edw. VII. c. 89, s. 45.

School cor-
porations
may borrow
surplus
moneys.

46. A rural school board may, with the consent of the rate-payers first obtained at a special meeting called for that purpose, by resolution authorize the borrowing from any municipal corporation of any surplus moneys derived from the Ontario Municipalities Fund, or from any other source, for such term and at such rate of interest as may be set forth in such resolution for any one or more of the following purposes: the purchase or enlargement of a school site, the erection of a school-house, drill hall, gymnasium, or teacher's residence, or any addition to the same or any of them, and any sum so borrowed shall be applied only to the purpose for which it was borrowed. 9 Edw. VII. c. 89, s. 46.

RATES.

Councils to
levy sums
required by
trustees

Rev. Stat.
cc. 192, 195.

47.—(1) The council of every local municipality shall levy and collect upon the taxable property of the public school supporters of the municipality, or of the sections in the case of rural schools, in the manner provided in this Act, and in *The Municipal Act*, and *The Assessment Act*, such sums as may be required by the board for school purposes; and shall pay the same to the treasurer of the board from time to time as may be required by the board.

and to account
for same.

(2) Every municipal council shall annually account for all moneys collected for public school purposes, and pay over the same to the school board of the municipality or of the section.

Excess to be
credited to
school board.

(3) Where the municipal council collects from the public school supporters of any municipality or of a school section any sum in excess of the sums disbursed on account of the public school or schools within such municipality or section such excess shall be credited to and paid over to the board on whose account it has been collected.

Establishment
of libraries.

(4) The council of every municipality may, in addition to the sums required by a board to be collected, raise by assessment such other sums as it may deem expedient for the establishment and maintenance of a school library, or for aiding new or weak schools, or continuation schools or fifth classes within such municipality, or for supplementing teachers' salaries or retiring allowances.

Correction of
errors in col-
lection of rates
in previous
years.

(5) Every municipal council shall correct any errors or omissions that may have been made within the three years next preceding such correction in the collection of any school rate duly imposed or intended so to be to the end that no property

shall escape from or be compelled to pay more than its proper proportion of the rate. 9 Edw. VII. c. 89, s. 47.

RURAL SCHOOL SECTIONS.

48.—(1) Where not already so subdivided the municipal council of every township shall subdivide the township into school sections so that every part of the township shall be included in some section, and shall distinguish each section by a number. School sections in townships.

(2) Where the land or property of any person is situate within the limits of two or more sections the parts so situate shall be assessed and returned upon the assessment roll separately according to the divisions of the school sections within the limits of which the same are situate. Assessors to value lands situate in each section.

(3) No section shall be formed which contains less than fifty children between the ages of five and twenty-one years whose parents or guardians are residents of the proposed section unless such proposed section is more than four square miles in area, provided that a smaller area, although it contains a less number of such children, may be formed into a school section where, because of lakes or other physical conditions, a section convenient for school purposes containing an area of more than four square miles cannot be formed. Area of new school sections.

(4) Every township clerk shall prepare in triplicate a school map of the township showing the divisions of the township into school sections and parts of union school sections; and shall furnish one copy to the county clerk, for the use of the county council, one to the county or district school inspector and retain the other in his office for the use of the township council, and shall furnish annually, on or before the first day of December, to the local inspector information in writing of the acreage, the assessed value, the rate for school purposes and the school population between the ages of five and twenty-one years of each section or part of a union section within the township. 9 Edw. VII. c. 89, s. 48. Township clerk to prepare maps of school sections.

RURAL SCHOOL TRUSTEES.

49.—(1) The trustees of every rural school section shall be a corporation by the name of "The Public School Board of Section No. of the Township of in the County of ," (inserting the number of the section and the names of the township and county). Trustees to be corporation.

(2) For every rural school section there shall be three trustees each of whom, in rotation, shall, except as herein otherwise provided, hold office for three years and until his successor has been elected. Trustees, term of office of.

Trustees, qualification of.

Rev. Stat.
c 192.

(3) The persons qualified to be elected trustees shall be such persons as are British subjects and resident ratepayers or resident farmers' sons, within the meaning of *The Municipal Act*, of the full age of twenty-one years, not disqualified under this Act, and no person not so qualified shall be elected or competent to act as trustee. 9 Edw. VII. c. 89, s. 49.

Elections in new sections.

50.—(1) At the first election in every new section the first trustee elected shall hold office for three years, the second for two years, and the third for one year; or in case of a poll being taken the trustee receiving the highest number of votes shall hold office for three years; the trustee receiving the number of votes next to the highest shall hold office for two years, and the other trustee shall hold office for one year.

Casting vote.

(2) Where two or more trustees have received an equal number of votes the chairman shall give a casting vote or votes.

When first year to be deemed to commence and end.

(3) The first year in each case shall be deemed to commence at the date of such first election and extend till the date fixed by this Act for holding the second annual meeting of ratepayers thereafter. 9 Edw. VII. c. 89, s. 50.

Corporation not to cease by want of trustees.

51. A school corporation shall not cease to exist by reason of the want of trustees, but if there are no trustees any two ratepayers of the section, or the inspector, by giving six days' notice to be posted up in at least three of the most public places of the section, may call a meeting of the ratepayers who shall elect three trustees in the manner prescribed by this Act. 9 Edw. VII. c. 89, s. 51.

Council may appoint trustees when no election.

52.—(1) Where the ratepayers of a section for two years neglect or refuse to elect trustees the council of the township may appoint trustees for the section, one for three years, one for two years, and the third for one year, to be reckoned from the date upon which the last election should have been had by the ratepayers, and may fill the vacancies on the board so long as the ratepayers neglect to do so. 9 Edw. VII. c. 89, s. 52 (1).

Dissolution of school section on non-election of trustees.

(2) Instead of appointing trustees the council may by by-law declare the section dissolved and attach the same, in such proportions as they may deem expedient, to adjoining sections, and the assets of the section shall be disposed of as may be determined by the Judge of the County or District Court of the county or district in which the school is situate, the inspector, and one other person to be named by them, whose direction or the direction of a majority of them as to the disposition of the assets shall be carried out by the council. 9 Edw. VII. c. 89, s. 52 (2); 1 Geo. V. c. 17, s. 55 (3).

Disposal of assets at dissolution of section.

MEETINGS OF RATEPAYERS.

Annual meeting, when held.

53.—(1) A meeting of the ratepayers of every section for the purpose (among other things) of electing trustees shall

be held annually on the last Wednesday in December, commencing at the hour of ten o'clock in the forenoon, or if the Board by resolution so directs at the hour of seven o'clock in the afternoon, at such place as the board shall by resolution determine, or in the absence of such resolution at the school house of the section. 9 Edw. VII. c. 89, s. 53 (1); 1 Geo. V. c. 17, s. 55 (4).

(2) Where a new section is formed the clerk shall fix the place for the first meeting and shall call the same for the fourth Wednesday after the time for appealing against the by-law forming the section has expired or after the final disposition of the appeal, if any, by causing notices to be posted up in three of the most public places in the new section at least six clear days before the date when the meeting is to be held. Proceedings on formation of new school section.

(3) The meeting shall be held at the same hour and conducted in the same manner as the annual meeting in organized sections. Time and conduct of meeting.

(4) At any time after the election of trustees in a new school section proceedings may be taken under the provisions of this Act to raise money for and acquire a school site, erect school buildings and provide school equipment. Procedure after election of trustees in new section.

(5) When any school meeting has not been held at the proper time the inspector, or any two ratepayers in the section, may call a meeting of the ratepayers by giving six clear days' notice to be posted up in at least three of the most public places in the school section; and the meeting so called shall possess all the powers and perform all the duties of the meeting in the place of which it is called. Meeting to be called in default of first or annual meeting.

(6) The ratepayers present at a school meeting shall elect one of their number as chairman, and shall also appoint a secretary who shall record the minutes of the meeting and perform such other duties as are required of him by this Act. Organization of meeting.

(7) The chairman shall submit all motions to the meeting in the manner desired by the majority and shall be entitled to vote on any motion, and in case of a tie the motion shall be declared to be negatived, and he shall decide all questions of order subject to an appeal to the meeting. Chairman, duties of.

(8) The business of every school meeting may be conducted in the following order:— Order of business.

- (a) Receiving the annual report of the trustees and disposing of the same;
- (b) Receiving the annual report of the auditor and disposing of the same;
- (c) Electing an auditor for the ensuing year;
- (d) Miscellaneous business;

(e) Instructing the trustees by resolution, if deemed expedient, to insure the school buildings and furniture;

(f) The election of trustees. 9 Edw. VII. c. 89, s. 53.

VOTING ON ELECTIONS OR SCHOOL QUESTIONS IN A RURAL SECTION.

Granting poll.

54.—(1) A poll may be demanded by any two ratepayers at a meeting for the election of trustees or for the settlement of any school question in a rural section, and such poll shall be granted by the chairman forthwith if demanded within ten minutes after the result of a vote has been declared by the chairman.

Proceeding in case of a poll.

(2) Where a poll is granted for the election of a trustee the secretary shall enter in a poll-book, in separate columns, the names of the candidates proposed and seconded, and shall write therein the names and residences of the ratepayers offering to vote within the time prescribed by this Act, and shall, in the column in which is entered the name of a candidate voted for by a voter, set the figure "1" opposite the voter's name.

Poll-book.

(3) Where a poll is granted on any school question the secretary shall prepare a poll-book with two separate columns marked respectively "for" and "against"; and shall write therein the name and residence of each ratepayer voting on the question; and shall record his vote by setting the figure "1" opposite his name in the proper column so as to show how he votes on the question.

When voter is objected to.

(4) If objection is made to the right of any person to vote the chairman, if the name of such person appears on the assessment roll or on Part I. or Part II. of the Voters' List, shall require such person to make the following declaration:

Declaration by voter.

(1) I, *A. B.*, declare and affirm that I am an assessed ratepayer (*or farmer's son entitled to vote under The Municipal Act*), in school section No.

(2) That I am of the full age of 21 years.

(3) That I am a supporter of the public school in said school section No. ; [*or, in case of a claim to vote as a farmer's son that my father (mother, step-father, step-mother, as the case may be) is a supporter of the public school in said school section No. , and that I have been a resident of said section for the past six months*].

(4) That I have a right to vote at this election.

After making such declaration the person making it shall be entitled to vote.

When poll shall close.

(5) The poll shall not close before noon but may close at any time thereafter when a full hour elapses without any

vote being polled, and shall not be kept open later than four o'clock in the afternoon. 9 Edw. VII. c. 89, s. 54 (1-5).

(6) When the meeting is held at seven o'clock in the evening the ratepayers may decide, by resolution, that the poll shall be conducted forthwith or at ten o'clock on the following morning; and if conducted in the evening the poll shall close after ten minutes has elapsed without any vote being recorded 1 Geo. V. c. 17, s. 55 (5). Polling at evening meeting.

(7) When the poll is closed the chairman and secretary shall count the votes polled for the respective candidates or affirmatively and negatively upon the question submitted, and if there is a tie the chairman shall give a second or casting vote. Counting votes—casting vote

(8) In the case of an election of trustees the chairman shall then declare the candidate elected for whom the highest number of votes has been polled, and in case of a vote on a school question he shall declare the same adopted or negatived as the majority of votes is in favour of or against the same. Declaration of result.

(9) A correct copy of the minutes of every school meeting and a copy of the poll-book where a poll has been taken, all of which shall be signed by the chairman and secretary, shall be forthwith transmitted by the chairman to the inspector. Copy of minutes and of poll book for inspector.

(10) The secretary of every school meeting at which any person is elected as trustee shall forthwith notify him in writing of his election, and of the name and address of the chairman of the meeting, and every person so notified shall be deemed to have accepted the office unless a notice to the contrary is delivered by him to the chairman within twenty days after the date of election. Acceptance of office by trustees.

(11) Where complaint is made to the inspector by a ratepayer that the election of a trustee, or that the proceedings or any part thereof of a school meeting have not been in conformity with this Act the inspector shall investigate the complaint, and confirm the election or proceedings if found to be in substantial accordance with this Act, or set the same aside if found not to be in substantial accordance therewith, and in the latter event he shall appoint a time and place for a new election or for the reconsideration of the school question, but no complaint shall be entertained unless made in writing to the inspector within twenty days after the holding of the election or meeting; and it shall not be incumbent upon the inspector to set aside such election or any proceeding for want of formal compliance with the provisions of this Act if he is satisfied that the result of such election or proceeding has not been affected thereby. Complaints as to elections.

(12) The clerk of the municipality shall supply a list of the persons qualified to vote when required by the board or when required by the inspector in the case of an investiga- Clerk to supply list of school voters.

tion with regard to the election of a trustee or the proceedings of a school meeting. 9 Edw. VII. c. 89, s. 54, (6-11).

URBAN SCHOOL BOARDS.

Board to be a corporation.

55.—(1) Every board in urban municipalities shall be a corporation by the name of "The _____ Public School Board," prefixing to the words "Public School Board" the name of the municipality for which the board is elected.

Who may be elected trustees.

(2) Any ratepayer who is a British subject resident in the municipality of the full age of twenty-one years and not disqualified may be elected a public school trustee, and every trustee except as otherwise herein provided shall continue in office until his successor has been elected and the new board organized, and no person who is not a British subject shall be elected or competent to act as trustee. 9 Edw. VII. c. 89, s. 55.

First election of trustees.

56.—(1) Where an unincorporated village becomes incorporated or a village or town changes its corporate status, the board having jurisdiction over the school property situate within such village or town before its incorporation or before the change of its corporate status shall exercise all the powers conferred by this Act upon the board of an urban municipality until a new election of trustees is held.

First meeting in newly incorporated village.

(2) Where an unincorporated village becomes incorporated the board shall call a meeting of the ratepayers within one month after the date of the incorporation for the election of a new board.

Procedure for calling meeting.

(3) In calling the meeting the provisions of section 60 shall be complied with so far as the same are applicable. 9 Edw. VII. c. 89, s. 56.

Municipalities divided into Wards.

Trustees in city, etc., divided into wards.

57.—(1) For every ward into which an urban municipality is divided there shall be two trustees each of whom shall, except as otherwise provided in this Act, continue in office for two years and until his successor has been elected and the new board organized.

Retirement by rotation.

(2) After the first election of trustees in any ward, or when from any cause the two trustees in any ward are elected simultaneously, one of them, to be determined by lot at the first meeting of the board after their election, which determination shall be entered upon the minutes, shall hold office for one year and the other for two years, and after such first or simultaneous election one trustee shall be elected annually for each ward. 9 Edw. VII. c. 9, s. 57.

Municipalities not divided into Wards.

58.—(1) The board of a town or village not divided into wards shall consist of six trustees each of whom, except as otherwise provided in this Act, shall continue in office for two years and until his successor has been elected and the new board organized. Trustees in villages not divided into wards.

(2) After the first election three of the board, to be determined by lot at the first meeting of the board after their election, which determination shall be entered upon the minutes, shall hold office for one year and the other three for two years, and after the first election three trustees shall be elected annually. 9 Edw. VII. c. 89, s. 58. Retirement by rotation.

QUALIFICATION OF VOTERS.

59.—(1) Every ratepayer of the full age of twenty-one years who is assessed as a public school supporter in an urban municipality or in a school section, as the case may be, and every person qualified to vote as a farmer's son under *The Municipal Act*, shall be entitled to vote at the election of school trustees and in a rural school section on all school questions. Who may vote. Rev. Stat. c. 192.

(2) Any person exempted from the payment of school rates wholly, or in part on account of indigence shall be disqualified from voting. 9 Edw. VII. c. 89, s. 59. No vote when exempted from school rates.

ELECTION OF TRUSTEES IN URBAN MUNICIPALITIES.

60. Subject to the provisions of section 61 elections of public school trustees in urban municipalities shall be held in the manner following:— Provisions for elections of trustees.

(a) A meeting of the ratepayers for the nomination of candidates shall take place at noon on the last Wednesday in the month of December, annually, at such place as shall be fixed by resolution of the board, and in municipalities divided into wards in each ward thereof if the board so directs. Nominations.

(b) The board shall by resolution before the second Wednesday in December in each year name the returning officers to preside at the meetings for the nomination of candidates, and also for holding the election in case of a poll, and in case of the absence of such officer a chairman chosen by the meeting shall preside, and the board shall give at least six days' notice of such meeting. Returning officer.

(c) If at such meeting only the necessary number of candidates are proposed and seconded the returning officer or chairman, after the lapse of one hour, shall declare such candidates duly elected and Proceedings at nominations.

shall so notify the secretary; but if more candidates are nominated than are required to be elected the returning officer or chairman shall adjourn the proceedings until the first Wednesday in January then next when a poll or polls shall be opened at such place or places, and in each ward where the municipality is divided into wards, as shall be determined by resolution of the board.

Hours of
polling.

- (d) The polls shall be opened at the hour of ten o'clock in the forenoon and shall continue open until five o'clock in the afternoon and no longer, but any poll may be closed at any time after eleven o'clock in the forenoon when a full hour elapses without a vote having been polled;

Furnishing
voters' list
in cities and
towns divided
into wards.

- (e) In urban municipalities and where township boards exist the clerk of the municipality shall furnish to the board, within three days after request in writing, "The Voters' List" of the municipality, together with a supplementary list either printed or in writing of the names of persons who are assessed as supporters of separate schools, and also a list of the names, alphabetically arranged, of all ratepayers who are not already upon "The Voters' List."

For each
polling place.

- (f) The board shall provide each polling place with such lists, and a poll book; and the returning officer or deputy returning officer, or the poll clerk, shall enter in such book in separate columns the names of the candidates nominated, and shall write the names and residences of the ratepayers offering to vote at the election, and shall in each column in which is entered the name of a candidate voted for by a voter set the figure "1" opposite the voter's name.

Oath to be ad-
ministered
when voter
objected to.

- (g) When an objection is made to the right of a person to vote the returning officer or deputy returning officer shall require such person to make the following oath:

Form of oath.

You swear (or solemnly affirm) that you are the person named (or intended to be named), in the list (or supplementary list) of voters now shown to you (*showing the list to voter*);

That you are a ratepayer;

That you are of the full age of twenty-one years.

That you are a public school supporter;

That you have not voted before for School Trustee at this election, either at this or any other polling place in this Ward (or in this Municipality where the municipality is not divided into wards) for School Trustee;

That you have not directly or indirectly received any reward or gift, nor do you expect to receive any, for the vote which you tender at this election;

That you have not received anything, nor has anything been promised to you directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team or any other service connected with this election;

And that you have not directly or indirectly paid or promised anything to any person either to induce him to vote or to refrain from voting at this election. So help you God;

And after making such oath the person making it shall be entitled to vote.

(h) The returning officer or deputy returning officer shall, on the day after the close of the election, return the poll book to the secretary with his solemn declaration thereto annexed that the poll book has been correctly kept and contains a true record of the votes given at the polling place for which he was returning officer or deputy returning officer; Duty of returning officer after close of election.

(i) The secretary shall add up the number of votes for each candidate as appears from the poll book so returned, and shall declare elected the candidate or candidates having the highest number of votes, and shall forthwith notify the candidates in writing of the number of votes polled for each of them; Duty of secretary.

(j) When the result of the polling is indecisive by reason of two or more candidates having an equal number of votes all of such candidates shall be notified of the first meeting of the board after the election, and the member of the board present at such meeting who is assessed for the largest sum on the last revised assessment roll shall, before the organization of the board, give a vote for one or more of such candidates so as to decide the election. Casting vote.
9 Edw. VII. c. 89, s. 60.

ELECTION BY BALLOT.

61.—(1) The board of an urban municipality or a township board may, by resolution of which written notice shall be given to the clerk of the municipality on or before the first day of October in any year, require the election of school trustees for such urban municipality or township to be held by ballot on the same day as municipal councillors or aldermen are elected as the case may be. Elections of trustees on same day as municipal elections.

Trustees may
discontinue
use of ballot
at elections.

(2) Any such board may in like manner discontinue the use of the ballot on giving written notice to the clerk to that effect at the time hereinbefore mentioned, and thereafter the elections shall be conducted as provided in section 60.

Ballot not to be
discontinued
or resumed for
three years
after the
change.

(3) Where any such board requires elections to be held by ballot, and elections are so held, no change shall be made in the mode of conducting such election for a period of three years, and should the mode of conducting the elections by ballot be discontinued at any time then the provisions of section 60 shall apply for a period of three years at least after such discontinuance.

Mode of con-
ducting elec-
tions by ballot.

(4) Where notice is given requiring the election to be held by ballot such election shall thereafter be held at the same time and place and by the same returning officer or officers and conducted in the same manner as the municipal nominations and elections of aldermen or councillors, and the provisions of *The Municipal Act*, respecting the time and manner of holding the election, including the mode of receiving nominations for office, and the resignation of persons nominated, vacancies, and declarations of qualification and office, shall *mutatis mutandis* apply to the election.

Rev. Stat.
c. 192.

Form of
ballot papers.

(5) A separate set of ballot papers shall be prepared by the clerk of the municipality for each of the wards or polling subdivisions containing the names of the candidates in the same form *mutatis mutandis* as those used for councillors or aldermen, and no ballot shall be delivered to any person who is entered on the list of voters as a separate school supporter. 9 Edw. VII. c. 89, s. 61.

Election of
trustees
where wards
abolished.

62.—(1) In towns divided into wards the board by resolution may limit the number of trustees to six, provided that at least one month's notice was given of the intention to consider a resolution to that effect, and such limitation shall not come into operation until the close of the current school year.

By vote of
electors of
whole muni-
cipality.

(2) When such resolution has been adopted the election shall thereafter be by vote of the electors of the whole municipality.

Retirement
of trustees
by rotation.

(3) The board shall by lot determine what trustee or trustees shall retire in addition to the number retiring by annual rotation in order to admit of the election of three new trustees at the next annual election, and thereafter three trustees shall be elected annually by the ratepayers of the whole municipality to fill the place of the same number retiring by rotation.

Filling
vacancies.

Election of
trustees when
council elected
by general
vote.

(4) In cities and, until a resolution has been passed under the next preceding subsection, in towns the trustees shall continue to be elected by wards notwithstanding that the aldermen or councillors are elected by a general vote and not by wards.

(5) Where the trustees are elected by ballot the election shall be conducted as nearly as may be in the manner provided in the preceding provisions of this section, and the officers for holding such election shall be appointed by the municipal council as if the election of aldermen or councillors by general vote had not been adopted for such city or town. Vote by ballot.

(6) Where the election is not by ballot it shall be conducted as nearly as may be in accordance with the provisions of section 60. 9 Edw. VII. c. 89, s. 62. Open voting.

VACANCIES ON BOARD.

63.—(1) Where the office of trustee becomes vacant from any cause the remaining trustees shall, except as provided in subsection 2, forthwith hold a new election to fill such vacancy in the manner provided for holding the annual election of trustees, and the person elected shall hold office for the remainder of the term for which his predecessor was elected. Vacancy in office of trustee.

(2) In the case of an urban municipality if such vacancy occurs within three months of the expiry of the term of office the remaining trustees may allow the office to remain vacant until the next ensuing annual election. 9 Edw. VII. c. 89, s. 63. Special case.

CONTROVERTED ELECTIONS.

64.—(1) Every complaint respecting the validity or mode of conducting the election of a trustee or the return made by a returning officer in an urban municipality or in a township for which a township board has been established shall be made to the Judge of the County or District Court within twenty days after such election, and he shall, within a reasonable time, in a summary manner hear and determine the complaint, and may cause the assessment rolls, collector's rolls, poll books and other records of the election to be brought before him, and may inquire into the facts by oral testimony or upon affidavit and may cause such persons as he may deem expedient to appear before him and give evidence. Investigation of complaints by judge.

(2) The Judge may confirm the election or set it aside, or declare that some other candidate was duly elected, or may order a new election, and may order the person found by him not to have been elected to be removed; and if the Judge determines that any other person was duly elected he may order such person to be admitted; and if the Judge determines that no person was duly elected he shall order a new election to be held, and he shall in all cases report his decision to the secretary of the board. 9 Edw. VII. c. 89, s. 64. Powers of judge.

65. In the case of an election of trustees in an urban municipality or in a township for which a township board has been established the provisions of *The Municipal Act*, as to bribery and undue influence shall apply, and in every case in which Bribery and undue influence. Rev. Stat. c. 192.

an election is complained of on those grounds the enquiry by the Judge in reference thereto shall be by oral testimony only. 9 Edw. VII. c. 89, s. 65.

RESIGNATIONS.

Trustees may resign.

66.—(1) A trustee of a rural section may resign by giving notice in writing to each of the other trustees.

Re-election of any trustee lawful.

(2) Where after the resignation of a rural school trustee he has continued to act for three months without his right to do so having been called in question by proceedings to vacate his seat, or for the holding of a new election, he shall be deemed to have continued to be a trustee, notwithstanding his resignation, and shall hold office for the residue of the term for which he was elected.

Urban trustee may resign.

(3) A member of an urban board may resign by giving written notice of his resignation to the secretary.

Trustees resigning but continuing to act.

(4) A retiring trustee shall be exempted from serving for four years next after leaving office, but he may with his own consent be re-elected. 9 Edw. VII. c. 89, s. 66.

MEETINGS OF BOARDS.

First meeting of Board.

67.—(1) Every urban board shall hold its first meeting in each year on the third Wednesday in January at the hour of seven o'clock in the evening or at such other hour on the same day and at such place as may have been fixed by resolution of the former board, or, if no place has been so fixed, at the usual place of meeting of the council of the municipality.

Chairman.

(2) The secretary shall preside at the election of chairman, or if there is no secretary or in his absence, the members present shall choose one of themselves to preside at such election and the member so chosen may vote as a member.

Casting vote.

(3) In case of an equality of votes at the election of chairman the member who is assessed for the largest sum on the last revised assessment roll shall have a second or casting vote.

Quorum.

(4) The presence of a majority of the members constituting a board shall be a quorum at any meeting and a vote of the majority of such quorum shall be necessary to bind the corporation.

Equality of votes.

(5) On every question other than the election of a chairman the chairman or presiding officer of the Board may vote with the other members of the Board, and any question on which there is an equality of votes shall be deemed to be negatived. 9 Edw. VII. c. 89, s. 67.

Organization of board at first meeting.

68.—(1) Subject to the provisions of subsection 4 of section 53, every rural school board shall hold its first meeting

in each year at the school house of the section on the Wednesday following the annual meeting at the hour of 4 o'clock in the afternoon, and shall be organized by the election of a chairman, a secretary and a treasurer or a secretary-treasurer.

(2) Subsequent meetings shall be held at such time and place as the board may deem expedient. Subsequent meetings.

(3) The presence of a majority of the members constituting a board shall be necessary to form a quorum. Quorum. 9 Edw. VII. c. 89, s. 68.

69. No act or proceeding of a rural school board which is not adopted at a regular or special meeting at which at least two trustees are present shall be valid or binding. Regularity of proceedings. 9 Edw. VII. c. 89, s. 69.

NON-RESIDENT PUPILS.

70.—(1) The board shall admit to the school any non-resident pupil who resides nearer to such school than to the school in his own section if the inspector reports that the accommodation is sufficient for the admission of such pupil, and in case of dispute as to distance the decision of the inspector shall be final. Admission of non-resident pupils.

(2) The parent or guardian of such non-resident pupil shall pay such fees monthly as may be prescribed by the board, but such fees, together with the taxes, if any, paid by the parent or guardian to such school, shall not exceed the average cost of the instruction of the pupils of such school. Fees of non-resident pupils.

(3) The parent or guardian shall be liable for the payment of all rates assessed on his taxable property for the purposes of the section in which he resides, but the board of that section may remit the whole or any part of such rates, not exceeding the amount of the fees paid to the board of the neighbouring section. A resident of one section sending his children to another section.

(4) Where the property of a non-resident is assessed for an amount equal to the average assessment of residents the children of such non-resident shall be admitted to the public school of the section on the same terms and conditions as the children of residents. Attendance of children of non-residents.

(5) Where the children attending a neighbouring section reside three miles or more by the nearest public road from the school house in the section to which they belong the board of the section in which such children reside shall remit so much of the taxes payable by the parents or guardians of such children for school purposes as equals the fees paid to the board of the neighbouring section. Remission of school tax where certain fees paid.

(6) A person of school age maintained in a county house of refuge shall be deemed to be a non-resident and the county council shall pay to the board of the school attended by such Pupils in house of refuge.

person such monthly fees as may be agreed upon, or at least the average cost of the instruction of the pupils of such school. 9 Edw. VII. c. 89, s. 70.

Providing for admission of pupils from rural school section to urban or Indian schools.

71.—(1) The ratepayers of a rural section may by resolution at the annual or any special meeting authorize the board to provide for the admission of the pupils of such section to the schools of any adjoining urban municipality or school section or to an Indian school under the supervision of a public school inspector, subject to the approval of the Minister and of the board of such urban municipality or school section or authority having control of the Indian school, and the accommodation provided under such arrangement shall be taken in lieu of the accommodation which the board is required by this Act to make for the pupils of the section, and as a public school within the meaning of sections 92 and 93.

Payment of fees and expenses of conveying pupils to and from school.

(2) The first mentioned board may levy and collect upon the taxable property of the section such sums as may be necessary to pay the fees of pupils attending the schools of such urban municipality or school section and to pay for the conveyance of the pupils to and from such schools, and also such other sums as they may deem expedient or as may be required by this Act.

Non-resident pupils not to be counted in fixing proportion of grant.

(3) In ascertaining the average attendance of pupils at an urban school for the purpose of apportioning the legislative grant the pupils attending such school under the provisions of subsection 1 shall not be included.

Expenses payable by township.

(4) The township council shall pay to the board of such rural section their actual disbursements for the maintenance of their pupils at and their transportation to and from the school which they attend, not exceeding the minimum sum required by subsection 1 of section 92 and subsections 1 and 2 of section 93, to be levied, collected and applied to teachers' salaries.

Share of grants.

(5) The board shall also be entitled to receive such share of the legislative and county grants as may be determined by the Minister in case the amount received from the township council is not sufficient to cover such actual disbursements. 9 Edw. VII. c. 89, s. 71.

Agreement between school board of city and board of contiguous rural section for joint use of rural school.

72.—(1) The board of education or board of public school trustees in any city may agree with the board of public school trustees of a school section adjacent to the boundaries of the city for the erection, equipment and maintenance of a school in the school section for the joint accommodation of pupils from the school section and from any designated area in the city contiguous to the section.

Terms of agreement.

(2) The agreement shall fix the location of the school, the class of building to be erected, the accommodation to be provided and the proportion of the cost of erecting and maintain-

ing the school to be contributed by the city and the rural school section respectively.

(3) The board of education or board of public school trustees of the city shall include in its annual estimates an amount sufficient to pay its proportion of such cost, and the same shall be levied, collected and paid over by the corporation of the city as part of the rate levied for public school purposes in the city. Estimates of urban board to include cost.

(4) The agreement shall not be binding or be acted upon until it has received the approval in writing of the Minister. Agreement to be approved by Minister.

(5) If after the agreement has been entered into the rural school section or the part thereof in which the school is situated is annexed to the city, the school site and buildings and property used in connection therewith shall vest in the board of education or board of public school trustees of the city, and all payments made by such board towards acquiring a site, erecting buildings or making permanent improvements shall be taken into consideration in fixing the amount to be paid by the board for the school. Matters consequent upon annexation of section to city.

(6) The Minister may make regulations in the manner provided by *The Department of Education Act*, for the apportionment of the legislative and municipal grant in the case of schools to which this section applies, and may fix the proportion which shall be paid on account of any such school out of the Legislative grant for rural and urban schools respectively, and the proportion of the municipal grant to rural schools which shall be paid on account of such school. 1 Geo. V. c. 17, s. 55 (6). Regulations. Rev. Stat. c. 265.

DUTIES OF TRUSTEES.

73. It shall be the duty of the boards of all public schools and they shall have power,— Duties of Board.

- (a) To appoint a secretary and a treasurer or a secretary-treasurer, who may be a member of the board, and to appoint such committees, officers and servants as may be deemed expedient; Appointment of officers.
- (b) To fix the time and place of meetings of the board, the mode of calling and conducting them, and of keeping a correct account of the proceedings of such meetings and to transmit to the Minister all returns and reports required by the Regulations; To fix meetings of the board.
- (c) In the case of a rural school board, at the first meeting of the board to examine the school house, out-buildings and school furniture, maps and apparatus, with a view to ascertain what repairs or improvements may be necessary, and to make suitable provision for lighting fires and keeping the Inspection of school property at first meeting of board.

school house and premises in a cleanly and sanitary condition by appointing some person for that purpose;

To provide accommodation.

- (d) To provide adequate accommodation for all children between the ages of five and sixteen years resident in the municipality, and in the case of rural schools for two-thirds of such children resident in the section, as ascertained in both cases by the school census taken by the assessor in the next preceding year, and in computing such residents the children of persons on whose behalf a separate school has been established under *The Separate Schools Act* shall not be included;

Rev. Stat. c. 270.

To provide and maintain school premises.

- (e) To acquire or rent school sites and premises, and to build, repair, furnish and keep in order the school-houses, furniture, fences and all other school property, and to keep the wells, closets and premises in a proper sanitary condition;

To procure books and appliances.

- (f) To procure registers, maps, globes, apparatus and, if deemed expedient, prize books, and to establish and maintain school libraries;

To determine number and kind of schools, etc.

- (g) To determine the number, grade, territorial boundaries and description of schools to be opened and maintained; the teachers to be employed; the terms on which they are to be employed and their remuneration and rank, whether principals or assistants; 9 Edw. VII. c. 89, s. 72 (a-g).

To keep school open and establish classes, etc.

- (h) To keep open each school during the whole period of the school year, except where it is otherwise provided by this Act, and if deemed expedient to establish kindergartens and classes for industrial training and instruction in household science, and establish school gardens and summer or vacation schools; 9 Edw. VII. c. 89, s. 72 (h); 2 Geo. V. c. 76, s. 8.

Rural school—reporting deaf, dumb and blind.

- (i) In the case of a rural school board, to ascertain and report to the Minister at least once in each year the names and ages of all children of school age who are blind or who are deaf and dumb and who would otherwise be required to attend the school under their charge; 3-4 Geo. V. c. 70, s. 10.

Dental and medical inspection.

- (j) To provide and pay for such dental and medical inspection of the pupils as the Regulations may prescribe, or, in the absence of Regulations, as the board may deem proper;

Dismissal of refractory pupils.

- (k) To expel from the school a pupil who is adjudged by the board and the teacher to be so refractory that his presence in school is injurious to the other pupils;

- (l) If deemed expedient, to purchase for the use of pupils text books and other school supplies, and either to furnish the same to the pupils free of charge or to collect for the use thereof from their parents or guardians a sum not exceeding twenty cents per month per pupil to defray the cost thereof; Books and school supplies.
- (m) If deemed expedient, to exempt any indigent person from the payment of school rates, in whole or in part, and to notify the clerk of the municipality of such exemption on or before the first day of August, and where deemed necessary to provide for the children of such person text-books and other school supplies at the expense of the board; Exemption of indigent persons from school rates.
- (n) To provide and pay, in the case of urban schools, salaries of inspectors, teachers, instructors and other officers and employees of the board, repairs to buildings, furnishings, fuel, light, stationery, equipment, insurance and miscellaneous expenses, including travelling expenses of trustees and officers of the board incurred by the authority of the board; Urban boards to pay officials and maintenance expenses.
- (o) To submit to the municipal council, on or before the first day of August or at such time as may be required by the council, an estimate for the current year of the expenses of the schools under their charge; To lay before council estimates for moneys.
- (p) To provide, in the case of rural schools, for the payment of a secretary's and teachers' salaries quarterly and, if necessary, to borrow on the promissory note of the board, under its corporate seal, at interest not exceeding six per cent. per annum, such moneys as may be required for that purpose until the taxes imposed therefor are collected; Payment of teachers' salaries.
- (q) To submit, in the case of urban municipalities, all accounts, books and vouchers to be audited by the municipal auditors whose duty it shall be to audit the same, and to publish as soon as the audit is made in one or more of the public newspapers, or otherwise, an abstract of the annual report of the auditors with their findings and recommendations; To publish auditors' report.
- (r) To take possession of all property acquired or given for public school purposes and to hold the same according to the terms on which it was acquired or given; and to dispose, by sale or otherwise, of any school site or property not required in consequence of a change of site or other cause; to convey the same under their corporate seal, and to apply the proceeds thereof for school purposes or as directed by this Act; Custody and disposal of school property.

Supplementing
superannua-
tion allow-
ances.

- (s) To supplement out of school funds, as deemed expedient, any allowance payable under this Act to superannuated teachers;

Execution of
teachers' agreements.

- (t) To execute the agreement with each teacher required by subsection 1 of section 87, and to procure the execution thereof by the teacher before he enters upon his duties;

Use of school
house.

- (u) To permit the school house and premises to be used for any educational or other lawful purposes which may be deemed proper, provided the proper conduct of the school is not interfered with;

Evening
lectures.

- (v) If deemed expedient, and subject to the Regulations, to establish, conduct and maintain free lectures open to the public, and to include in their estimate for the current year the expense thereof;

Dismissal of
secretary or
treasurer.

- (w) If deemed expedient, to dismiss the secretary or treasurer at any time and thereupon to make a new appointment to fill the vacancy;

Penny Sav-
ings Banks.

- (x) If deemed expedient, to provide books, stationery and other materials necessary in connection with the establishment and maintenance of a Penny Savings Bank, or any system introduced for the encouragement of thrift and the habit of saving. 9 Edw. VII. c. 89, s. 72 (i)-(w).

Employing
teachers in
charitable
institutions.

74. The board of a city, when so requested in writing by a charitable organization having the charge of children of school age, may employ teachers for such children and may furnish for their use all school supplies and such children shall be considered public school pupils and shall be subject to the provisions of this Act. 9 Edw. VII. c. 89, s. 73.

Grant for
encourage-
ment of phys-
ical training.

75.—(1) An urban board may expend such sums as it may deem expedient for establishing and maintaining cadet corps and in promoting and encouraging gymnastics and other athletic exercises but such sums shall not exceed \$200 per annum when the annual registered attendance of pupils does not exceed 3,000 and \$50 additional for each additional thousand in attendance. 9 Edw. VII. c. 89, s. 74 (1); 2 Geo. V. c. 76, s. 9.

Military
uniforms.

(2) The board may also provide uniforms for classes in military drill.

Consolidation
of funds for
games.

(3) Where a board of education has been established in any city or town the allowance for games to high schools and public schools may be consolidated, and games for the high schools and public schools held on the same day. 9 Edw. VII. c. 89, s. 74 (2)-(3).

76. The board may pay the travelling expenses of any member of the board or of any teacher in the employment of the board incurred in attending meetings of the Ontario Educational Association or other like association of teachers or trustees in Ontario. 3-4 Geo. V. c. 70, s. 11.

Travelling
expenses
attending
teachers'
association.

DUTIES OF TREASURER.

77.—(1) The treasurer shall give such security as may be required by the board, and the security shall be deposited with the clerk of the municipality.

Security to be
given by secre-
tary-treasurer.

(2) A trustee shall not be surety for the treasurer or for any person entrusted with school money.

Trustees not to
be sureties.

(3) The treasurer shall receive all school moneys and shall account for the same and shall disburse all moneys as directed by the board, and he shall produce, when required by the board or by auditors or other competent authority, all papers and money in his possession, power or control belonging to the board. 9 Edw. VII. c. 89, s. 75.

Duties.

DUTIES OF SECRETARY.

78. It shall be the duty of the secretary:—

(a) To keep a full and correct record of the proceedings of every meeting of the board in the minute-book provided by the board for that purpose, and to see that the minutes, when confirmed, are signed by the chairman of the meeting;

Duties of
secretary.
Minutes of
meetings.

(b) To call a special meeting of the board at the request in writing of two trustees or of ten ratepayers, specifying the objects for which the meeting is to be held, and to state the objects of the meeting in the notice calling the same;

Calling special
meetings.

(c) In the case of a rural section, to give notice in writing, before the 15th day of January in each year, to the inspector and to the clerk of the municipality of the names and post office addresses of the trustees and of the teachers employed, and to give reasonable notice in writing from time to time of any changes;

Names and
addresses of
trustees and
teachers to be
given to town-
ship clerk.

(d) In the case of a rural section, to give the notice required by this Act of each annual meeting of the ratepayers of the section; to call a special meeting of the ratepayers when directed by the board or on the request in writing of ten ratepayers for filling any vacancy in the board, for the selection of a new school site, or the appointment of a school auditor or for any other lawful school purpose; to cause notices of the time and place, and of the objects of such meeting, to be posted up in three or

Notice of an-
nual meeting
and meetings
to fill vacan-
cies in board,
etc.

Report at
annual meet-
ing.

more public places in the section at least six clear days before the time of holding such meeting; and to cause to be prepared for the annual meeting of the ratepayers a report for the year then ending containing a summary of the proceedings of the board during the year, a detailed account of all school moneys received and expended during such year and any further information that may be required by the Minister or by the Regulations, such report to be signed by the trustees and by either or both of the auditors of the section;

Annual and
semi-annual
returns.

- (e) To transmit to the inspector all returns on or before the fifteenth day of January in each year according to the forms prescribed by the Regulations. 9 Edw. VII. c. 89, s. 76.

Compensation
of secretary-
treasurer.

79. The secretary of a rural school section may be allowed such remuneration for his services and for attending to the repairs of the school house or premises as shall be fixed by the trustees. 9 Edw. VII. c. 89, s. 77.

v.

AUDITORS OF RURAL SECTIONS.

Auditors.

80.—(1) There shall be two auditors for every rural section, one of whom shall be elected annually by the ratepayers at the annual meeting or at a special meeting and the other appointed by the board on or before the first day of December in each year.

Filling
vacancies.

(2) Where an auditor dies or refuses or is unable to act another may be elected or appointed in his place.

Appointment
by inspector.

(3) If from any cause at any time after the first day of December there are not two auditors willing, able and authorized to act, the inspector on the written request of any two ratepayers shall appoint one or both auditors as the case may require.

Trustees and
secretary-
treasurer to
lay accounts,
etc., before
auditors.

(4) The board or the secretary and treasurer shall lay all accounts before the school auditors or one of them, together with the agreements, vouchers, contracts and books in their possession, and the board and the secretary and treasurer and each of them shall afford to the auditors all the information in his or their power as to the receipts and expenditures which the auditors or either of them may require.

Time of audit.

(5) The auditors, or one of them, shall on or immediately after the first day of December in each year appoint a time, before the day of the next ensuing annual school meeting, for examining the accounts of the school section.

Auditors for
consolidated
school.

(6) There shall be two auditors for every consolidated school, one of whom shall be appointed by the trustees and the other by the inspector. 9 Edw. VII. c. 89, s. 78.

81.—(1) It shall be the duty of the auditors to examine into and decide upon the accuracy of the accounts of the section, and whether the board has duly expended for school purposes and accounted for the moneys received by it, and to submit the accounts with a full report thereon at the next annual school meeting.

Duties of auditors.

(2) Any difference of opinion between the auditors on any matter in the accounts shall be decided by the inspector.

Differences between auditors.

(3) If both auditors object to the lawfulness of any expenditure they shall report the matter to the annual meeting, which may either determine the same or submit it to the Minister whose decision shall be final. 9 Edw. VII. c. 89, s. 79.

Report of objections.

82. The auditors or either of them may require the attendance of all persons interested in the accounts, and of their witnesses, with such books, papers, and documents as the auditor or auditors may direct, and may administer oaths to such persons and witnesses. 9 Edw. VII. c. 89, s. 80.

Powers of auditors.

83. An auditor who has entered upon an audit may complete the same although he has not done so within the time prescribed by this Act. 9 Edw. VII. c. 89, s. 81.

May complete audit after time prescribed.

DUTIES OF TEACHERS.

84. It shall be the duty of every teacher,—

(a) To teach diligently and faithfully the subjects in the public school course of study as prescribed by the Regulations; to maintain proper order and discipline in the school; to encourage the pupils in the pursuit of learning; to inculcate by precept and example, respect for religion and the principles of Christian morality and the highest regard for truth, justice, loyalty, love of country, humanity, benevolence, sobriety, industry, frugality, purity, temperance and all other virtues;

Instruction and discipline.

(b) To use the English language in instruction and in all communications with the pupils in regard to discipline and the management of the school, except where it is impracticable to do so by reason of the pupil not understanding English, but recitations requiring the use of a text-book may be conducted in the language of the text-book;

Use of English language.

(c) To see that the school house is ready for the reception of pupils at least fifteen minutes before the time of opening in the morning and five minutes before the time of opening in the afternoon; to call the roll every day according to the register prescribed by the Regulations; to enter in the visitors' book visits made to the school; to give the inspec-

Duties in and about the schoolhouse, registers, etc.

tor, trustees and visitors access at all times to the register and visitors' book; and to deliver the register, the school house key and other school property in his possession to the board on demand, or when his agreement with the board has expired, or when for any reason his engagement has ceased;

Classification
of scholars
and conduct
of classes.

- (d) To classify the pupils according to the courses of study prescribed by the Regulations; to conduct the school according to a time-table accessible to pupils and visitors; to prevent the use by pupils of unauthorized text-books; to attend regularly the teachers' institutes in the inspectorate; to notify the board and inspector of his absence from school and the cause thereof; and to make at the end of each school term, and subject to revision by the inspector, such promotions from one class or form to another as he may deem expedient;

Examinations.

- (e) To hold closing exercises of the school and to give due notice thereof to the board, to any school visitors who reside in the school section, and through the pupils to their parents or guardians, and to hold such other examinations as may be required by the inspector for the promotion of pupils or for any other purpose as the inspector may direct:

Information
for Minister
and inspector.

- (f) To furnish to the Minister and the inspector any information which it may be in his power to give respecting the condition of the school premises, the discipline of the school, the progress of the pupils and any other matter affecting the interests of the school, and to prepare such reports of the board as are required by the Regulations;

Care of health
of pupils.
Preservation
of school
property.

- (g) To give assiduous attention to the health and comfort of the pupils; to the cleanliness, temperature and ventilation of the school house; to the care of all maps, apparatus and other school property; to the preservation of shade trees and the orderly arrangement and neat appearance of the playgrounds, and to report promptly to the board and to the municipal health officer the appearance of any infectious or contagious disease in the school, or the unsanitary condition of the school house, outhouses or surroundings;

Infectious
diseases among
pupils.

- (h) To refuse admission to the school of any pupil who he believes is affected with or exposed to chicken pox, small pox, cholera, glanders, scarlet fever, scarlatina, diphtheria, whooping cough, measles, mumps or other infectious or contagious disease, or consumption, until furnished with a certificate of a medical officer of health or of a duly qualified medical practitioner approved by him that all

danger from exposure to contact with such pupil has passed;

- (i) To suspend any pupil guilty of persistent truancy, or persistent opposition to authority, habitual neglect of duty, the use of profane or improper language, or conduct injurious to the moral tone of the school, and to notify the parent or guardian of the pupil and the board of such suspension, but the parent or guardian of any pupil suspended may appeal against the action of the teacher to the board which shall have power to remove, confirm or modify such suspension. 9 Edw. VII. c. 89, s. 82. Disciplinary powers.

85. A teacher who refuses to deliver to the board any visitors' book, school register, school-house key or any other school property in his possession shall not be a qualified teacher until restitution is made, and he shall also forfeit any claim which he may have against the board. 9 Edw. VII. c. 89, s. 83. Refusal to give up key, etc.

CHANGE OF AUTHORIZED TEXT-BOOKS.

86. An authorized text-book in actual use may be changed by the teacher for any other authorized text-book on the same subject with the written approval of the board and subject to the Regulations. 9 Edw. VII. c. 89, s. 84. Change of text-book.

AGREEMENTS.

87.—(1) Every agreement between a board and a teacher shall be in writing signed by the parties thereto and sealed with the seal of the board. Valid agreements with teachers.

(2) No person shall be employed or act as a teacher unless he holds a certificate of qualification. Qualified teacher defined.

(3) Unless otherwise expressly agreed, a teacher shall be entitled to be paid his salary in the proportion which the number of days during which he has taught bears to the whole number of teaching days in the year. 9 Edw. VII. c. 89, s. 85 (1-3). Proportion of salary to which teacher entitled.

(4) Every teacher shall be entitled to his salary notwithstanding his absence from duty on account of sickness for a period not exceeding four weeks in any one year of his employment if the sickness is certified to by a physician, or in a case of acute inflammatory condition of the teeth or gums by a licentiate of dental surgery, but the period of four weeks may in any case of sickness be allowed and extended at the pleasure of the Board without a certificate. 9 Edw. VII. c. 89, s. 85 (4); 1 Geo. V. c. 17, s. 56 (2). Case of sickness or dental treatment.

(5) If at the expiration of a teacher's engagement his salary has not been paid in full, the salary shall continue to run at the rate mentioned in the agreement until paid, if an Protection of teachers in regard to salary.

action to recover it is commenced within three months after the salary is due and payable. 9 Edw. VII. c. 89, s. 85 (5); 3-4 Geo. V. c. 70, s. 13.

Provision in case of difference between teacher and trustees.

(6) All matters of difference between boards and teachers in regard to salary or other remuneration whatever may be the amount in dispute shall be determined in the Division Court of the division where the cause of action arose, subject to appeal, as provided by this Act.

When judge may relieve board from extra liability.

(7) If it appears to the Judge on the trial of an action for the recovery of a teacher's salary that there was reasonable ground for the board disputing its liability, and that it was willing and offered to pay to the teacher any sum not so in dispute, the Judge may relieve the board from the liability imposed by subsection 5, in whole or in part. 9 Edw. VII. c. 89, s. 85 (6-7).

TEACHERS' CERTIFICATES.

Several classes of certificates.

88.—(1) Subject to the Regulations any British subject of good moral character and physically fit to perform the duties of a teacher and who passes the examination prescribed by the Regulations, may be awarded a certificate of qualification as a teacher according to the Regulations.

Former certificates continued.

(2) Certificates granted before the 15th day of February, 1871, shall remain in force according to the terms of the Act under which they were granted.

First-class valid.

(3) First-class certificates issued before the 15th day of February, 1871, and valid on the 24th day of March, 1874, shall be valid throughout Ontario during good conduct.

Second-class valid.

(4) Second-class certificates issued before the 15th day of February, 1871, and valid on the 24th day of March, 1874, shall, if the holders thereof have taught for ten years in Ontario, be valid during good conduct within the territory for which they were granted.

Term of certificates generally.

(5) All other certificates shall be valid for such periods as the Regulations prescribe.

Suspension of certificate for misconduct, etc.

(6) The inspector may suspend the certificate of any teacher in his inspectorate for inefficiency, misconduct, or a violation of this Act or of the Regulations or for wilful neglect or refusal to carry out his agreement with a board, and he shall notify in writing the Minister, the board concerned and the teacher of such suspension and of the reasons therefor.

Appeal to Minister.

(7) The teacher may appeal to the Minister who may make such order or orders with regard to the suspension as he deems proper. 9 Edw. VII. c. 89, s. 86.

TEACHERS' INSTITUTES.

Organization of teachers' institutes.

89.—(1) Subject to the Regulations, teachers may organize themselves into Teachers' Institutes for the purpose of receiv-

ing instruction in methods of teaching and for discussing educational methods. 2 Geo. V. c. 76, s. 10.

(2) The Minister may out of any money appropriated for that purpose apportion \$25 to each teachers' institute so organized, and conducted according to the Regulations, where the number of teachers in an inspectorate or united inspectorate is one hundred or less, and where it is more than one hundred, \$25 for each additional one hundred or portion thereof, and the council of each county, city, or separated town, or town in territory without county organization shall pay annually to the president of each teachers' institute established within such county, city, or town a sum at least equal to the amount so apportioned.

Aid to teachers' institutes by the Legislature and equivalent from municipalities.

(3) If the teachers in an inspectorate composed of a city and part of a county are united in one teachers' institute, the corporation of each municipality shall pay its share of the equivalent of the legislative grant in the proportion that the number of teachers in each inspectorate bears to the total number of teachers in the combined inspectorates. 3-4 Geo. V. c. 70, s. 13.

City and county sharing.

(4) In territory without county organization the Minister may apportion \$50 to each teachers' institute where there is no city or town council liable for such contribution 9 Edw. VII. c. 89, s. 87 (3).

In the districts.

LEGISLATIVE AND MUNICIPAL GRANTS.

90.—(1) With respect to all moneys received by him from the county treasurer a township treasurer shall be a sub-treasurer of the county treasurer, but the county council may by by-law constitute the county treasurer the sub-treasurer for municipalities not separated from the county.

Who to be sub-treasurer.

(2) The treasurer of the school board of each city and separated town shall receive the government grants apportioned to the city or town and shall hold the same for school purposes subject to the order of the board.

Treasurers of cities and separated towns to receive grants.

(3) The treasurer and sub-treasurer and their sureties shall be accountable for school moneys to the county, city or town, as the case may be, and any bond or security given by a treasurer or sub-treasurer for duly accounting for and paying over moneys coming into their hands shall apply to school moneys, and may be enforced against the treasurer or sub-treasurer or his sureties in case of default on his or their part. 9 Edw. VII. c. 89, s. 88.

Responsibility of treasurer and sureties.

91.—(1) The treasurer of every county except where he acts as sub-treasurer also shall pay to the treasurer of every township within the county the legislative grant apportioned to the rural public and separate schools within the township.

County treasurer to pay legislative grant to township treasurers.

Township
treasurer's
duties as to
grants.

(2) The township treasurer shall pay to the boards of the rural public and separate schools within the township the amount of the legislative grant apportioned to such schools respectively.

Where county
treasurer is
sub-treasurer.

(3) Where the county treasurer acts as sub-treasurer also he shall perform the duty which is by subsection 2 to be performed by a township treasurer.

Statement to
be sent with
grant.

(4) A statement showing the amount of the legislative grant apportioned to the school shall be sent to every board by the sub-treasurer or the township treasurer as the case may be.

Payment on
inspector's
warrant.

(5) The payments to the boards under this section shall be made on the warrant of the proper inspector. 9 Edw. VII. c. 89, s. 89.

County rate
in aid of
schools.

92.—(1) The council of every county shall levy and collect by an equal rate upon the taxable property of the whole county, according to the equalized assessments of the municipalities, a sum at least equal to that part of the legislative grant for public and separate school purposes which is apportioned by the Minister on the basis of the equipment and accommodations of the rural schools of the county, including portions of union school sections and such sums shall be payable to the boards of the schools receiving such legislative grant in the same proportions as such grant is apportioned. 9 Edw. VII. c. 89, s. 90 (1); 2 Geo. V. c. 76, s. 12; 3-4 Geo. V. c. 70, s. 14 (1).

County to raise
equivalent to
legislative
grant for fifth
classes.

(2) The council of every county shall levy and collect an annual rate upon the taxable property of the whole county, according to the equalized assessments of the municipalities a sum at least equal to that part of the legislative grant for public and separate school purposes which is apportioned to the schools in the municipality for fifth classes, and such sum shall be payable to the boards of the schools receiving such legislative grant in the same proportion as such grant is apportioned. 9 Edw. VII. c. 89, s. 90 (2); 3-4 Geo. V. c. 70, s. 14 (2).

Apportion-
ment where
section in two
or more
counties.

(3) In case of a union school section composed of parts of two or more counties the council of each county shall pay a proportion of the whole sum required to be paid under subsection 1 which bears the same ratio to that sum as the assessed value of the part of the section in the county bears to the assessed value of the whole section, such assessed value to be according to the last revised assessment rolls of the local municipalities in which the section is situate. 3-4 Geo. V. c. 70, s. 14 (3).

Apportionment
of school
moneys in
united
counties.

(4) The county council of two or more counties united for municipal purposes may apportion the amount to be levied for public school purposes so that each county forming the union shall be liable only for sums payable in respect of public

and separate schools within such county. 9 Edw. VII. c. 89, s. 90; 3-4 Geo. V. c. 70, s. 14 (4).

93.—(1) Where according to the equalized assessments the assessed value of all the taxable property of the public school supporters in a township in a county is at least equal to an average assessment of \$30,000 for each section therein the council of such township shall each year levy and collect by assessment upon the taxable property of the public school supporters of the whole township, not included in an urban municipality or annexed to an urban municipality for school purposes, the sum of \$300 at least for every public school where the teacher or principal teacher is engaged for two consecutive school terms, and a proportionate amount of such sum where a teacher or principal teacher is engaged for one school term or longer, and the additional sum of at least \$200 for every assistant teacher engaged for two consecutive school terms, and a proportionate amount of such sum for every assistant teacher engaged for one school term or longer.

Township
grant in aid
of schools.

(2) In a county where such assessed value is less than an average assessment of \$30,000 for each public school section in a township, and in a township in territory without county organization whatever its assessment may be, the council of the township shall each year levy and collect as aforesaid the sum of \$150 at least for every school where a teacher or principal teacher is engaged for two consecutive school terms, and a proportionate amount of such sum where a teacher or principal teacher is engaged for one school term or longer, and an additional sum of at least \$100 for every assistant teacher engaged for two consecutive school terms, and a proportionate amount of such sum where such assistant teacher is engaged for one school term or longer.

Where assess-
ment is less
than \$30,000
for each
section.

(3) The sums so levied and collected shall be applied exclusively to teachers' salaries.

Application of
township
grant to
teachers'
salaries.

(4) In the case of a union school section formed of parts of townships the sums levied and collected from the ratepayers by township councils shall be levied and collected by the several councils out of the taxable property of the public school supporters of such union school section, each in the proportion which such taxable property within its jurisdiction bears to the taxable property of public school supporters in the whole union section.

Rates for
teachers'
salaries in
union school
sections.

(5) In the case of a union school section formed of parts of townships the sums mentioned in subsections 1 and 2 shall be paid by the respective township councils in proportions to be fixed in accordance with the provisions of section 29.

Township
grants to
union school
sections.

94. Where part of the salary of a teacher in a rural school for any reason does not become payable or is withheld from him under the provisions of this Act, the sums payable respec-

Abatement of
amounts
proportion-
ately.

tively by the county, the township or townships, and the rate-payers and out of the legislative grant, on account of such salary, shall abate in the proportions in which they were respectively liable for the whole. 9 Edw. VII. c. 89, s. 92.

Amounts required to be raised to be paid over as required.

95. All moneys required to be levied and collected and applied to the salaries of teachers shall be paid to the treasurers of the respective boards from time to time as may be required by them. 9 Edw. VII. c. 89, s. 93.

Consolidated schools.

96. Where two or more school sections are consolidated all the teachers in the consolidated school, for the purposes of sections 92 to 94 shall be deemed principal teachers unless their number is greater than the number of sections consolidated, in which case the number of teachers in excess of the number of school sections shall be deemed assistant teachers. 9 Edw. VII. c. 89, s. 94.

INSPECTORS.

Number. Limits of Inspectorates.

Minister to determine number of inspectors.

97.—(1) The Minister shall determine the number of inspectors to be appointed in every county, city or separated town, and thereafter whenever he deems it expedient may direct the appointment of additional inspectors in a county or city. 9 Edw. VII. c. 89, s. 95 (1); 3-4 Geo. V. c. 70, s. 15.

Power of Minister to make appointments.

(2) Where the council of a county, or the board of education or the board of public school trustees of a city or separated town fails to appoint the number of inspectors which the Minister has determined that there should be appointed for the county, city or separated town, the Minister may appoint them; and the salary and expenses of any inspector so appointed shall be provided for and paid in the same manner as if he had been appointed by the council or school board.

When Minister may make appointments.

(3) No such appointment shall be made by the Minister until, in the case of a county, one month after the first meeting of the council after notice of the determination of the Minister, and, in the case of a city or separated town, within one month after the first meeting of the school board after such notice. 3-4 Geo. V. c. 70, s. 17.

Where two inspectors appointed for a county or city.

(4) Where more inspectors than one are to be appointed for a county or for a city, the county council or the Board of Education or Board of Public School Trustees, as the case may be, shall, subject to the approval of the Minister, define the limits of the inspectorate of each inspector, or in the case of a city may, subject to the like approval, assign such duties in addition to those prescribed by the Regulations to each inspector as the board may deem expedient. 9 Edw. VII. c. 89, s. 95 (2); 3-4 Geo. V. c. 70, s. 16.

(5) There shall not, without the consent of the Minister, be assigned to an inspector the duty of making a greater or a less number of visits of inspection than the number of such visits which according to the Regulations may be assigned to one inspector.

Duties
assigned to
inspector.

(6) Where in a county, city or separated town there are more or less than the number of schools, the inspection of which according to the Regulations should be assigned to the inspector or inspectors, an agreement may be made, with the approval of the Minister, for uniting for the purposes of inspection the whole or part of such county, city or separated town with an adjacent county or part of it; and where that is done the councils or school boards of the municipalities which have entered into the agreement shall provide for dividing the parts so united into inspectorates, the schools in each of which shall require the number of visits of inspection which according to the Regulations may be assigned to one inspector, unless the Minister sanctions a variation therefrom and shall assign an inspector to, or appoint an inspector for, each of such inspectorates, and shall determine the proportion in which the salaries and expenses of the inspectors shall be paid by each corporation and school board, and the same shall be payable and shall be paid accordingly.

Provision for
uniting or
inspection
whole or part
of county, city,
or separated
town with
adjacent
county or
part of it.

(7) Where, owing to the number of schools, it is impracticable to form inspectorates in accordance with the provisions of the next preceding subsection as many inspectorates as it is practicable to form may be formed if provision is made for the inspection of such of the schools as are not included in any inspectorate by an inspector of an adjacent county, city or separated town.

Where imprac-
tical to form
such inspec-
torates.

(8) Where provision is made for such inspection by an inspector of an adjacent county, city or separated town, the councils or school boards which enter into an agreement for that purpose shall, subject to the approval of the Minister, provide by agreement as to the proportion of the time of the inspector which shall be given to the schools in each of the municipalities and the proportion of his salary and expenses which shall be borne by each corporation and school board, and the same shall be payable and be paid accordingly.

Provision for
proportion
of time to be
given to each
school, and
the payment.

(9) Where in the case to which subsection 6 applies no agreement is made under the provisions of the foregoing subsections before a day to be fixed by the Minister, the Minister may exercise any of the powers which might have been exercised by the council of the county or by the school board and may re-arrange the inspectorates and assign or appoint inspectors to them or may make provision for the inspection of any of the schools within the county, city or separated town by an inspector of a district or of another county, city or separated town, or the Minister may appoint an inspector or inspectors for the purpose of inspecting such schools.

Where no
agreement
made Minister
may re-
arrange
inspectorates.

Where such power exercised proportion of time and of salary to be determined by Minister.

(10) Where the power conferred upon the Minister by the next preceding subsection is exercised and the inspector of a district or of another county, city or separated town is appointed, the proportion of his time which shall be given to the schools in each county, city or separated town shall be determined by the Minister, and the proportion of his salary and expenses which shall be borne by each corporation and school board shall also be determined by him, and the same shall be payable and be paid accordingly.

Minister appointing under subsec. 9 to fix proportion to be paid by county and school board, etc.

(11) Where the Minister, under the powers conferred by subsection 9, appoints a new inspector the Minister shall fix the proportions of his salary and expenses which shall be paid by the corporation of the county and the school board of the city or separated town in respect of the schools in such county, city or separated town the inspection of which is assigned to such inspector, and the same shall be payable and be paid accordingly.

Payment by county or school board.

(12) Any sum which is payable by the corporation of a county or by a school board under any of the foregoing subsections shall be provided for and paid in the same manner as if the inspector had been appointed by the corporation of the county or by the school board. 3-4 Geo. V. c. 70, s. 19.

Agreement by Minister with county council.

(13) The Minister may enter into an agreement with the council of a county that the inspector or one of the inspectors of such county shall be inspector for a district inspectorate and as to the proportion of the salary of such inspector, which shall be payable by the county and the Province respectively. 9 Edw. VII. c. 89, s. 95 (5).

Minister to define inspectorate.

(14) The Minister whenever he deems it necessary shall fix the limits of every district inspectorate, and shall give notice by registered letter to the secretary of every school board in the territory without county organization of the inspectorate to which the school section or other division for which the board is elected is assigned. 9 Edw. VII. c. 89, s. 95 (6); 3-4 Geo. V. c. 70, s. 20.

Urban inspectorate.

(15) Where a board of public school trustees or a board of education appoints an urban inspector, the city or separated town for which such appointment is made shall constitute an urban inspectorate.

Approval of municipal by-laws.

(16) Every by-law or resolution passed and every agreement entered into by a municipal council or board under this section shall be subject to the approval of the Minister. 9 Edw. VII. c. 89, s. 95 (7-8).

Appointment of special inspector.

(17) When owing to the requirements of the Regulations the Minister deems it expedient, he may himself appoint a special inspector of public schools who shall be subject directly to his control, and whose salary and travelling expenses shall be paid by the Department of Education. 3-4 Geo. V. c. 70, s. 18.

Appointment.

98.—(1) The council of every county, by resolution passed at the first meeting held after being directed by the Minister to appoint an additional inspector or after a vacancy in the office of county inspector occurs, shall appoint an inspector.

Appointment
of inspector by
county council.

(2) Where a vacancy occurs in the office of county inspector the warden of the county may appoint some legally qualified person to fill the vacancy until the next ensuing meeting of the county council.

Vacancy in
county.

(3) An urban inspector shall be appointed by the board by resolution passed at the first meeting held after being directed by the Minister to appoint an additional inspector or after a vacancy occurs or at an adjournment thereof.

Appointment
by urban
board.

(4) The clerk of the county or the secretary of the board, as the case may be, shall forthwith transmit a copy of the resolution, certified by the chairman, to the Minister by registered post.

Resolution to
be sent to
Minister.

(5) Where a county council for one month after such meeting, or where a public school board or board of education for one month after a vacancy occurs, neglects to make an appointment, the same may be made by the Minister.

Appointment
by Minister on
default.

(6) Every appointment of a county or urban inspector shall be subject to ratification by the Minister, and if not so ratified within one year thereafter the engagement of the inspector shall terminate at the end of that period and the council or board shall appoint another inspector as provided by this Act.

Ratification of
appointment
by Minister.

(7) District inspectors shall be appointed by the Lieutenant-Governor upon the recommendation of the Minister and shall hold office during pleasure.

Appointment
of district
inspector.

(8) Where more inspectors than one are appointed in a county or city the county council or the board may, subject to the approval of the Minister, designate one of the inspectors to be senior inspector and the senior inspector, in addition to the powers and duties of an inspector, shall have such other powers and perform such other duties as the Minister may prescribe. 9 Edw. VII. c. 89, s. 96.

Senior
inspector.

Removal, Suspension or Dismissal.

99.—(1) An inspector who ceased to hold office on the 31st day of December, 1912, under section 13 of the Act passed in the 2nd year of His Majesty's reign chaptered 75 shall not be eligible for appointment as inspector. See 2 Geo. V. c. 75, s. 13.

Inspector
whose
appointment
lapsed on 31st
December, 1912.

(2) An inspector may be suspended or removed from office or his certificate may be cancelled by the Minister for neglect of duty, misconduct, inefficiency or physical infirmity.

Grounds
for dis-
missal.

Removal by
county council
or board.

(3) The county council or board by which an inspector is appointed may suspend the inspector for neglect of duty misconduct, inefficiency or physical infirmity.

Report to
Minister.

(4) The clerk of the county or secretary of the board, as the case may be, shall forthwith report such suspension to the Minister in writing with a statement of the reasons therefor and the Minister may remove or confirm the suspension or may remove the inspector from office or cancel his certificate and the decision of the Minister shall be final.

Salary during
suspension.

(5) The Minister may give such direction as to the payment or forfeiture of the salary of the inspector for the period of suspension as he may think just. 9 Edw. VII. c. 89, s. 97 (2-5).

Qualifications, etc.

Qualification
of inspectors.

100.—(1) No person shall be appointed or act as an inspector of public schools who has been removed from the office of inspector by the Minister or who does not hold a certificate of qualification as prescribed by the Regulations.

Inspector shall
not have any
other office or
employment.

(2) An inspector who during his tenure of office holds any other office or employment or follows any other profession or calling, except the performance of such special duties as the Minister may require, without the approval of the Minister and of the county council of the county or of the board of the city or town in which his inspectorate lies shall forfeit his office as inspector, but this section shall not apply to any person who was a member of the Assembly on the 13th day of April, 1909. 9 Edw. VII. c. 89, s. 98.

Duties of in-
spectors.

101.—(1) Subject to the Regulations it shall be the duty of every public school inspector,

- (a) To visit in every year each school room in his inspectorate having a separate register as often and for such length of time on each occasion as the Minister may direct;
- (b) To prepare a report of every such visit in the form prescribed by the Regulations;
- (c) To forward within one month after such visit a copy of every such report to the board within whose jurisdiction the school is situate;
- (d) To make a general annual report as to the performance of his duties and the condition of the schools in his inspectorate to the county council and to the board of every city or separated town included in his inspectorate or in the case of an urban inspector to the board of the city or town only;
- (e) To report to the medical officer of health of the municipality any case in which the school

buildings or premises are found to be in an unsanitary condition;

(f) To furnish the Minister with information respecting any public school in his inspectorate whenever required so to do;

(g) To withhold his order for the amount apportioned from the Legislative or municipal grant;

(i.) Where any school has been kept open for less than six months in the year except where that has been caused by the school having been closed by order of the medical officer of health or local or Provincial board of health on account of the prevalence of any communicable disease;

(ii.) Where the board fails to transmit promptly the annual or other school returns properly filled up;

(iii.) Where the board fails to comply with this Act or with the Regulations; or

(iv.) Where the teacher uses or permits to be used as a text-book any book not authorized by the Regulations;

and in every case to report to the board and to the Minister his reasons for so doing;

(h) To discharge such other duties as may be required by the Minister or Regulations;

(i) On retiring from office to deliver to his successor his official correspondence and all school papers in his custody on the order of the Minister or of the council of the county in which his inspectorate lies or of the board by which he was appointed.

(2) Every inspector shall be directly responsible to the Minister for the due performance of his duties and, subject to the Regulations, shall obey the direction of the county council in the case of a county inspector and of the board in the case of an urban inspector. Inspector to be responsible to Minister.

(3) Where an inspector requires the testimony of a witness as to any fact alleged in any complaint or appeal made to him or to the Minister he may administer an oath to the witness. Power to administer oaths. 9 Edw. VII. c. 89, s. 99.

Salaries.

102.—(1) Every county inspector appointed after the first day of January, 1912, shall receive a salary for the first year of his employment of \$1,700, and for the second year Salaries of inspectors.

\$1,800, and for the third year \$1,900, and for every subsequent year \$2,000.

Present
inspectors.

(2) Every county inspector who was in office on the 31st day of December, 1911, shall be paid a salary of \$1,800 per annum for 1912, \$1,900 for 1913 and \$2,000 for every subsequent year. 2 Geo. V. c. 76, s. 14.

How pay-
able.

(3) One-half of the salary of every county inspector shall be paid by the Treasurer of Ontario out of the moneys appropriated for that purpose and one-half by the county council.

To be paid
monthly.

(4) The salaries of county inspectors shall be paid monthly by the treasurers of the counties and by the Minister directly to the inspectors.

Other
expenses.

(5) The county council shall also pay to the county inspector his reasonable expenses for travelling, printing, postage and stationery, and in case of dispute the amount thereof shall be settled by the Judge of the County Court upon the application of the inspector or of the council and the decision of the Judge shall be final. 9 Edw. VII. c. 89, s. 100 (3)-(5).

Office accom-
modation,
furniture, etc.

(6) The county council shall also provide the inspector with necessary office accommodation and furniture and clerical assistance, and in case of any difference between the county council and the inspector as to what is necessary the matter in dispute may be determined by the Judge of the County Court whose decision shall be final. 3-4 Geo. V. c. 70, s. 21.

Salaries of
urban
inspectors.

(7) The salary of an urban inspector shall be fixed by the board of public school trustees or board of education, of the city or town, and shall be payable by the treasurer of the board.

Contribution
from Province.

(8) Out of such moneys as may be appropriated for that purpose the Treasurer of Ontario shall annually pay in the month of December to the board of the city or separated town the sum of \$5 for every teacher occupying a separate room with a separate register and the amount so paid shall be applied towards the payment of the salary of the inspector.

District
inspectors.

(9) The salaries and travelling and other expenses of district inspectors shall be fixed by the Minister, and shall be paid by the Treasurer of Ontario out of any moneys appropriated for that purpose, at such times and in such manner as the Minister may direct. 9 Edw. VII. c. 89, s. 100 (6)-(8).

ALLOWANCE TO ARBITRATORS AND INSPECTORS.

Arbitrators to
award costs.

103. Arbitrators in making their award shall, among other things, determine the liabilities of the parties concerned for the costs of the arbitration and such determination shall be final and conclusive. 9 Edw. VII. c. 89, s. 101.

Allowance to
arbitrators.

104. Every person other than an inspector engaged as arbitrator on any matter arising under this Act shall be paid \$4 a day and travelling expenses. 9 Edw. VII. c. 89, s. 102.

APPEALS FROM DIVISION COURT DECISIONS.

105.—(1) In an action between a teacher and a board under this Act the Judge of the Division Court in which the action is tried may, at the request of either party, order the entering of judgment to be delayed for a sufficient time to enable such party to apply to the Minister to appeal. Appeals from Division Court judgment.

(2) The Minister may, within one month after the rendering of judgment, appeal from the decision of the Judge to a Divisional Court, by serving notice in writing of such appeal upon the clerk of the Division Court appealed from, which appeal may be entitled "The Minister of Education for Ontario, Appellant, in the matter between (*naming the parties*)."

(3) The Judge shall thereupon transmit to the Central Office of the Supreme Court at Toronto, certified under his hand, the summons and other proceedings in the action, together with the evidence and his judgment thereon, and all objections made thereto and he shall also certify under his hand to the Minister a true copy of the summons, proceedings, evidence, judgment and objections. Transmission of papers to Supreme Court

(4) After service of the notice of appeal no further proceedings shall be had until the appeal has been determined. Stay of proceedings.

(5) The Divisional Court shall give such order or direction to the court below touching the judgment to be given as the circumstances require and upon receipt of such order or direction the Judge shall proceed in accordance therewith. Direction to the Court below.

(6) The Divisional Court may also in its discretion award costs against the party on whose behalf an unsuccessful appeal is taken which shall be certified to and form part of the judgment of the court below, and such costs and any costs incurred by such party may be paid by the Minister and charged as contingent expenses of his office. Costs.

(7) Notwithstanding anything herein contained any party to an action in which the plaintiff claims more than \$100 shall have the same right of appeal as in an action in the Division Court. 9 Edw. VII. c. 89, s. 104. Right of appeal.

SUPERANNUATION.

106. Every teacher and inspector whose name was, on the 30th day of March, 1886, entered as having contributed to the fund for superannuated teachers may continue to contribute to such fund in such manner as may be prescribed by the Regulations the sum of at least \$4 annually, but no payment of arrears which accrued before the 1st day of January, 1885, shall be allowed. 9 Edw. VII. c. 89, s. 105. Superannuation fund.

Repayment
to wife, etc.,
of deceased
teacher.

107. On the death of such teacher or inspector, the wife, husband or legal representative of such teacher or inspector shall be entitled to receive the amount paid into the superannuation fund by such teacher or inspector with interest at the rate of seven per cent. per annum. 9 Edw. VII. c. 89, s. 106; 3-4 Geo. V. c. 70, s. 22.

Allowance
upon retire-
ment at sixty
years of age.

108.—(1) Every teacher and inspector who, while engaged in his profession, has contributed to the superannuated teachers' fund as provided by this Act, shall on reaching the age of sixty years, if he retires from the profession, receive an annual allowance at the rate of \$6 per annum for every year of service in Ontario upon furnishing evidence of good moral character, age and length of service.

Or after
thirty years
of service.

(2) A teacher or inspector who has reached the age of sixty years shall not be disqualified for superannuation by reason of his having retired from active service before reaching that age if he has served for a period of thirty years.

Retirement
through
disability.

(3) Every teacher and inspector under sixty years of age who has so contributed and who is disabled from practising his profession shall be entitled to a like annual allowance upon furnishing evidence as to length of service, moral character, and disability.

Extra
allowance
to certain
teachers.

(4) Every superannuated teacher and inspector who holds a first or second class provincial certificate, or a first-class county board certificate, and every principal of a high school or collegiate institute shall be entitled to receive a further allowance at the rate of \$1 per annum for every year of service while he held such certificate or while he acted as principal of a high school or collegiate institute.

When
allowance
to cease.

(5) The retiring allowance shall cease at the close of the year in which the death of the recipient takes place.

Teacher
resuming
profession.

(6) If a superannuated teacher or inspector, with the consent of the Minister, resumes the profession of a teacher or inspector his allowance shall be suspended during the time he is so engaged, and if he is again placed on the superannuation list an allowance for the additional time of service shall be made on compliance with this Act and the Regulations.

Again
retiring.

Forfeiture of
claims.

(7) A teacher or inspector who, having resumed his profession, wilfully draws or continues to draw upon the superannuation fund shall forfeit all claim to the fund and his name shall be struck off the superannuation list.

Repayment to
contributors.

(8) A teacher or inspector who retires from the profession, or who desires to remove his name from the list of contributors to the superannuation fund shall be entitled to receive back one-half of any sum contributed by him to the fund. 9 Edw. VII. c. 89, s. 107 (1)-(8).

(9) Where a teacher or inspector does not avail himself of the provisions of section 106 or of subsection 8 of this section, the provisions of section 107 and subsections 1 to 7 of this section shall apply so far as relates to all sums already paid by him into the superannuation fund. 9 Edw. VII. c. 89, s. 107; 3-4 Geo. V. c. 70, s. 23.

Teachers not availing themselves of Act.

109.—(1) Subject to the Regulations, the public school board of a city or town may make such annual grant as may be deemed proper for the establishment or in aid of a superannuation fund for the teachers and officers of the board of such city or town, and may make rules prescribing the terms and conditions upon and under which they shall be entitled to participate therein and may make it a term of the engagement of a teacher or officer that he shall contribute to the fund such annual sum as may be prescribed by such rules. 9 Edw. VII. c. 89, s. 108; 3-4 Geo. V. c. 70, s. 24.

Grant to superannuation fund by board.

(2) A board may invest any money received through legacy, gift, or superannuation fund, or in its hands for the purposes of a superannuation fund or otherwise, and for such purposes may have and may exercise the powers conferred upon trustees by *The Trustee Act*. 2 Geo. V. c. 76, s. 15; 3-4 Geo. V. c. 70, s. 25.

Investment of funds given or bequeathed. Rev. Stat. c. 121.

110. Where a teacher, inspector or officer of a board whose time is entirely devoted to the work of the board retires, having reached the age of sixty years, or after having been for twenty years in the service of the board, the board, in the case of a teacher, city inspector or other officer, and the county council in the case of a county inspector, may grant him an annual allowance not exceeding the salary which he was receiving at the time of retirement, or may make a grant to him by way of gratuity of a sum not exceeding the present value of such annual allowance computed on the basis of interest at the rate of four per centum per annum. 9 Edw. VII. c. 89, s. 109.

Retiring allowance to teachers, officers and inspectors.

INSTRUCTION IN AGRICULTURE, MANUAL TRAINING AND HOUSEHOLD SCIENCE.

111.—(1) The council of a township may engage the services of a person holding the degree of Bachelor of the Science of Agriculture or other certificate of qualification from the Ontario Agricultural College and approved of by the certificate of the Minister, or of an instructor qualified as required by the Regulations, to give instruction in agriculture, manual training and household science in the public schools of the municipality; and the council may levy and collect from the ratepayers of such municipality who are public school supporters such sums as may be necessary to pay the salaries of such instructors and all other expenses connected therewith.

Engagement of instructor in agriculture by township council.

Course of instruction.

(2) The courses of instruction shall be those prescribed by the Regulations.

Engagement by board.

(3) The board of a rural school section or of a union school section or a number of such boards may severally or jointly engage the services of any person qualified as provided in subsection 1 for the purpose of giving similar instruction to the pupils of their respective schools.

Course in agriculture to be open to all residents.

(4) The courses of instruction in agriculture, manual training and household science shall, as far as practicable, be open to all residents of the school section or municipality. 9 Edw. VII. c. 89, s. 110.

Manual training and domestic science classes in urban schools.

112.—(1) The high school board, the public school board and the separate school board, or the board of education and the separate school board or any of such boards in a city, town or village may enter into agreements with one another for the formation and carrying on of classes for instruction in agriculture, manual training and household science in connection with the work of the schools under the management of such boards, and for providing suitable buildings, apparatus and appliances for carrying on such classes, and the appointment of teachers therefor, and the proportion in which the cost thereof is to be borne by each board.

Management under committee.

(2) The boards may delegate the management and control of such classes and the buildings, apparatus and appliances used in connection therewith to such committee or committees as they may see fit, composed of members of such boards or of one or more of them, and such committees may, if the cost thereof has been included in the estimate mentioned in subsection 4, procure from time to time such buildings, apparatus, appliances and material as may be deemed necessary for carrying on such classes, and may engage teachers therefor.

Duration of office.

(3) The members of any such committee shall hold office during the pleasure of the board by which they are appointed.

Providing for cost of instruction.

(4) The committees shall annually, on or before the first day of February, furnish to each board an estimate of the amount required for carrying on such classes during the then current year, and the boards shall include in the estimates to be furnished to the council of the city or town the proportion of the amount so required which is to be provided by the board, and the same shall be included in the school rates of the municipality and levied and collected therewith. 9 Edw. VII. c. 89, s. 111.

OFFENCES AND PENALTIES.

Use of unauthorized text-books.

113. If a teacher negligently or wilfully permits an unauthorized book to be used as a text book by the pupils of his school, the Minister, on the report of the inspector, may suspend such teacher, and the board may also deduct from his salary a sum equal to so much of the legislative grant as has

been withheld on account of the use of such book or any less sum at its discretion. 9 Edw. VII. c. 89, s. 112.

114. Any person who wilfully makes a false declaration of his right to vote at a school meeting or at an election of trustees shall incur a penalty of not less than \$5 and not more than \$10. 9 Edw. VII. c. 89, s. 113. False declaration as to right to vote.

115. A trustee who refuses to serve after being duly elected shall incur a penalty of \$5, and a person elected as a trustee who as such attends any meeting of the board after becoming disqualified shall incur a penalty of \$20 for every meeting so attended. 9 Edw. VII. c. 89, s. 114. Refusing to serve.
Disqualified persons acting.

116. Every person elected as trustee who has not refused to accept the office and who at any time refuses or neglects to perform its duties shall incur a penalty not exceeding \$20. 9 Edw. VII. c. 89, s. 115. Penalty for refusal to perform duties.

117. A trustee shall not be eligible for appointment as public school inspector or teacher, nor shall the teacher of a high, public or separate school hold the office of public school trustee, nor shall an inspector be a teacher or trustee of a high, public or separate school while he holds the office of inspector. 9 Edw. VII. c. 89, s. 116. Disqualification for certain offices.

118. If a trustee is convicted of any indictable offence or becomes insane or, without being authorized by resolution entered upon the minutes, absents himself from the meetings of the board for three consecutive months, or ceases to be a resident within the municipality or school section for which he is a trustee, he shall *ipso facto* vacate his seat, and, subject to the provisions of subsection 2 of section 63, the remaining trustee or trustees shall declare his seat vacant and forthwith order a new election. 9 Edw. VII. c. 89, s. 117. Seat vacated by conviction for crime, etc.

119.—(1) A trustee shall not enter into any contract, agreement, engagement or promise, either in his own name or in the name of another, and either alone or jointly with another in which he has any pecuniary interest, profit or promised or expected benefit with the board of which he is a member, or have any pecuniary claim upon or receive compensation from the board for any work, engagement, employment or duty on behalf of the board, and every such contract, agreement, engagement or promise shall be null and void, and a trustee violating the provisions of this section shall *ipso facto* vacate his seat. Seat vacated by interest in contract with board.

(2) On the complaint of two ratepayers of the municipality or section or of the remaining trustee or trustees, the Judge of the County or District Court shall, on proof of the facts, declare the seat vacant, and, subject to the provisions of subsection 2 of section 63, the remaining trustee or trustees shall forthwith order a new election. When seat may be declared vacant.

Exception.

(3) Nothing in this section shall prevent a trustee receiving payment as provided by section 37 or prevent the board of a rural section from allowing the secretary or treasurer such compensation for his services as may be approved at the annual meeting of the ratepayers and duly entered in the minutes. 9 Edw. VII. c. 89, s. 118.

Newspaper proprietors inserting official advertisements not disqualified from sitting on boards, etc.

120. No person shall be disqualified from being a member of a board, or from sitting and voting on such board by reason only of his being proprietor of or otherwise interested in a newspaper or other periodical publication subscribed for by the board or in which an advertisement is inserted in the regular course of business if such advertisement or subscription is paid for at the usual rate, but such member shall not be entitled to vote where his own account is in question. 9 Edw. VII. c. 89, s. 119.

Penalty for disturbing a school or school meeting.

121. Any person who wilfully interrupts or disquiets the proceedings of a school meeting, or a public school, by rude or indecent behaviour, or by making a noise either within the place where such meeting is held or such school is kept or so near thereto as to interfere with the proceedings of the meeting or order of exercises of the school shall for each offence incur a penalty not exceeding \$20. 9 Edw. VII. c. 89, s. 120.

Penalty for chairman neglecting to report to inspector.

122. A chairman who neglects to transmit to the inspector a minute of the proceedings of any annual or other rural school meeting over which he has presided within ten days after the holding of such meeting shall incur a penalty not exceeding \$5. 9 Edw. VII. c. 89, s. 121.

Liability for neglect to take security.

123. If a board refuses or neglects to take proper security from the treasurer or other person to whom it entrusts school moneys and any school moneys are forfeited or lost to the municipality, section or board in consequence of such refusal or neglect every member of the board shall be personally liable for such moneys, and the same may be recovered by the board or any ratepayer interested therein suing on behalf of himself and all ratepayers of the municipality or section interested in any court of competent jurisdiction; but no member shall be liable if he proves that he made reasonable efforts to procure the taking of such security. 9 Edw. VII. c. 89, s. 122.

Secretary-treasurer or trustee refusing to deliver up books and moneys.

124. A secretary or a treasurer, and a person having been such secretary or treasurer, and a trustee or other person who has in his possession any book, paper, chattel, or money which came into his possession as such secretary, treasurer, trustee or otherwise shall not wrongfully withhold, or neglect or refuse to deliver up, or account for and pay over the same or any part thereof to the person and in the manner directed by the board or by other competent authority. 9 Edw. VII. c. 89, s. 123.

125.—(1) Upon application to a Judge of the County or District Court by the board or by two ratepayers supported by affidavit showing such wrongful withholding or refusal, the Judge may summon such secretary, treasurer, trustee or person to appear before him at a time and place appointed by him. 9 Edw. VII. c. 89, s. 124 (1); 3-4 Geo. V. c. 70, s. 26. Summons for appearance.

(2) Any bailiff of a Division Court, upon being requested so to do shall serve the summons or a true copy thereof on the person complained against personally, or by leaving the same with a grown-up person at his residence. Service of summons.

(3) At the time and place so appointed the Judge, being satisfied that service has been made, shall in a summary manner and whether the person complained against does or does not appear, hear the complaint, and if he is of opinion that it is well founded the Judge shall order the person complained against to deliver up, account for and pay over such book, paper, chattel or money by a day to be named by the Judge in the order, together with such reasonable costs incurred in making the application as the Judge may allow. 9 Edw. VII. c. 89, s. 124 (2-3). Order to account.

(4) In the event of non-compliance with the order the Judge may order the person complained against to be forthwith arrested by the sheriff of any county or district in which he may be found, and to be committed to the common gaol of the county in which he resides, there to remain without bail until the Judge is satisfied that he has delivered up, accounted for, or paid over the book, paper, chattel or money, in the manner directed by the board or other competent authority. 9 Edw. VII. c. 89, s. 124 (4); 3-4 Geo. V. c. 70, s. 27. Effects of non-compliance with judge's order.

(5) Upon proof of his having so done the Judge shall make an order for his discharge and he shall be discharged accordingly. Discharge on compliance with order.

(6) Upon proof that such person has done all in his power to deliver up, account for or pay over such book, paper, chattel or money as directed the Judge may order his discharge on such terms or conditions as he may deem just. Discharge on terms.

(7) Such proceedings shall not impair or affect any other remedy which the board or any other person may have against the person complained against or against any other person. 9 Edw. VII. c. 89, s. 124. Other remedy not affected.

126. It shall be the duty of the board and of the secretary and the treasurer to furnish the auditors with any papers or information in their or his power which may be required of them or him relating to the school accounts, and any member of the board or a secretary or treasurer who neglects or refuses so to do shall incur a penalty not exceeding \$20. 9 Edw. VII. c. 89, s. 125. Penalties on trustees refusing information, etc., to auditor.

Penalty for neglect to make returns.

127. If the board of a rural school section neglects to transmit to the inspector, in accordance with the Regulations, a correct and verified statement of the attendance of pupils in each of the schools under its charge during the twelve months then immediately preceding, the section shall not be entitled to its share of the legislative grant for such twelve months, and every member of the board so neglecting shall be personally responsible for the amount of the loss of such share. 9 Edw. VII. c. 89, s. 126.

Penalty for delaying yearly reports.

128. If the board of any school section neglects to prepare and forward such annual statement to their county inspector by the 15th day of January in every year, each of them shall, for every week thereafter until such statement has been prepared and presented, incur a penalty not exceeding \$5. 9 Edw. VII. c. 89, s. 127.

Penalty for false school reports and registers.

129. If a trustee knowingly signs a false report, or if a teacher keeps a false school register or makes a false return, he shall, for every offence incur a penalty not exceeding \$20. 9 Edw. VII. c. 89, s. 128.

Clerk neglecting or refusing to perform duties.

130. If a township clerk neglects or refuses to prepare and furnish the map of the school sections of his municipality as required by this Act, or if he neglects for one month to make any return required by this Act, he shall incur a penalty not exceeding \$10. 9 Edw. VII. c. 89, s. 129.

Penalty for not calling school meetings.

131. If an annual or other rural school meeting has not been held for want of the proper notice, every trustee or other person whose duty it was to give the notice shall incur a penalty of \$5. 9 Edw. VII. c. 89, s. 130.

[N.B.—A Trustee, teacher, inspector or officer of the Department of Education who is concerned or interested in the sale of books or supplies, and anyone employing or paying him to act as agent or otherwise, are liable to the penalties imposed by The Department of Education Act. See Rev. Stat. c. 265.]

Penalties for not maintaining school as required by Act.

132. Where a board makes default in maintaining a public school during the whole school year or such part thereof as this Act requires every member of the board shall incur a penalty of \$5 for every week during which such default continues, unless he proves that he did everything in his power to prevent such default. 9 Edw. VII. c. 89, s. 131.

Recovery and application of penalties.
Rev. Stat. c. 90.

133. The penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*, and shall be applied to such school purposes as the Minister may direct. 9 Edw. VII. c. 89, s. 132; 3-4 Geo. V. c. 70, s. 28.

CHAPTER 267.

An Act respecting Continuation Schools.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Continuation Schools Act*. Short title.
3-4 Geo. V. c. 72, s. 1.

2. In this Act, Interpreta-
tion.

- (a) "Maintenance" shall include ordinary repairs to the teacher's residence, the school buildings, out-houses, gymnasium, fences and school furniture, the improvement of the school grounds and the grounds attached to the teacher's residence, insurance of the school property, salaries of the teachers, officers and servants of the board, the expense of conducting entrance examinations and other expenses for ordinary school purposes and for such annual additions to the library, apparatus and other appliances as may be required by the Minister or by the Regulations, and shall also include gratuities and retiring allowances granted to teachers; "Mainten-
ance."
- (b) "Minister" shall mean Minister of Education; "Minister."
- (c) "Municipality" shall include a city, town, village or township, but not a county; "Municipality."
- (d) "Permanent improvements" shall include the purchase or rental of a residence for a teacher or of a school site, the erection or rental of a school house, the enlargement of both or either of them, changing the system of heating or ventilation, the erection of fences, outhouses and gymnasium, the purchase of school furniture, maps and apparatus, library and all other appliances required by the Regulations; "Permanent
improve-
ments."
- (e) "Regulations" shall mean the Regulations made by the Minister under *The Department of Education Act*. 3-4 Geo. V. c. 72, s. 2. "Regulations."
Rev. Stat.
c. 365.

3.—(1) Subject to the Regulations and to the approval of the Minister the public school board of any municipality or school section or a separate school board may establish and Establish-
ment of
schools.

maintain one Continuation School with a staff of at least one teacher engaged for his whole time.

Powers of boards.

(2) The board shall have in respect of such continuation school all the powers conferred on public or separate school boards as to acquiring a school site, erecting buildings and additions to existing buildings, and providing equipment for and paying the cost of permanent improvements, and of the maintenance of such continuation schools.

Agreements between boards for joint maintenance and establishment.

(3) Subject to the Regulations and to the approval of the Minister, agreements may be entered into by two or more public school boards or by one or more of such boards and one or more separate school boards for the establishment and maintenance of a continuation school to be conducted in some place agreed upon by the boards for the benefit of the pupils from all of such schools, and any such agreement shall specify the proportion of the cost of the establishment and maintenance of the continuation school to be paid by each of such boards or shall provide for the manner in which such proportion shall be determined.

Management of continuation school under committee.

(4) A continuation school established under subsection 3 shall be under the control and management of a committee composed of not more than two-thirds of the members of each of the boards by which it is established who shall be appointed by such boards respectively.

Committee to be a body corporate.

(5) The committee shall be a body corporate and shall be styled The Board of Trustees of the Continuation School of the
(naming the municipality or school section or sections).

Apportionment of cost in union school sections.

(6) Where the board of a union school section establishes or enters into an agreement with any other board for the establishment of a continuation school, the council of each municipality included or part of which is included in the union school section shall levy and collect upon the taxable property in the union school section within its jurisdiction its share of the expense of establishing and maintaining such continuation school according to the equalized assessment as provided by *The Public Schools Act* of the part of the union school section comprised in the municipality.

Rev. Stat. c. 266.

Township grant towards salary.

(7) Subject to subsection 8, for the purposes of subsections 1 and 2 of section 93 of *The Public Schools Act* a continuation school shall be deemed a public school.

Township rates, how to be levied. Rev. Stat. c. 266.

(8) Where the continuation school is established by one or more public school boards the amount to be levied and collected by the township council under section 93 of *The Public Schools Act* shall be levied upon the taxable property of the public school supporters, and where the school is established by one or more separate school boards the amount to be levied

shall be levied upon the supporters of such separate schools.
3-4 Geo. V. c. 72, s. 3.

4.—(1) All sums required to be provided for the support of a continuation school established under section 3, after deducting from the expenditures the legislative and county and other municipal grants, shall be provided for by a rate levied

Providing money required for maintenance.

- (a) where the school is established by the board of an urban municipality or of a public school section, or by the board of an urban municipality and one or more public school sections, or by the boards of two or more public school sections, on the property liable to assessment and taxation for public school purposes in such municipality or school section or sections;
- (b) where the school is established by the board of one or more separate schools, on the property liable to assessment and taxation for separate school purposes;
- (c) where the school is established by one or more public school boards and one or more separate school boards, on the property liable to assessment and taxation for public school purposes in the municipality or section or sections and on the property liable to assessment and taxation for separate school purposes, in the proportions fixed by or under the agreement for the establishment of the school. 3-4 Geo. V. c. 72, s. 4.

5.—(1) Pupils whose parents are supporters of the school may be admitted free or charged such fees as the board may determine but such fees shall be uniform for all such pupils.

Fees for children of supporters.

(2) Pupils whose parents are not supporters of the school may be admitted for the first year after the establishment of the school on payment of such fees as may be mutually agreed upon by the board and the parents of the pupils, and thereafter on the payment of such fees as the board may determine, but all such fees shall be uniform, and the fee shall not exceed an amount equal to the cost per pupil of the maintenance of the school as ascertained by taking the total cost of maintenance of the school for the year next preceding after deducting the amount of the legislative and county grants and dividing it by the average number of all the pupils in attendance for the same year.

For those whose parents not supporters.

(3) The board of any other public or separate school may agree with the board by which the continuation school is established or the board of the continuation school, as the case may be, for the payment by such first mentioned board

Payment of lump sum in lieu of fees.

of a lump or other annual sum in lieu of the fees payable under subsection 2. 3-4 Geo. V. c. 72, s. 5.

No establishment where there are high schools.

6. A continuation school shall not be established or maintained in a municipality in which a high school is maintained or in any other part of a high school district. 3-4 Geo. V. c. 72, s. 6.

County grant.

7. The council of the county in which a continuation school is situate shall pay towards the maintenance of such school a sum equal to the amount apportioned to the school by the Minister out of the legislative grant. 3-4 Geo. V. c. 72, s. 7.

Additional contribution by county council.

8.—(1) The council of the county may contribute such further sum as it may deem expedient towards permanent improvements or to the maintenance of continuation schools situate in the county; but any sum so contributed, except as provided by subsection 2, shall be apportioned among all such continuation schools in proportion to the amount which the council is required to contribute to their support.

May be for aid to some only of the schools.

(2) The council of a county may by a two-thirds vote of all the members thereof pass by-laws for granting additional aid to any one or more of the continuation schools in the county without making a similar provision for the other continuation schools therein.

Apportionment between counties in a union.

(3) The council of united counties may apportion the amount to be levied for continuation schools so that each county in the union shall be liable only for sums payable in respect to continuation schools situate therein.

Grant from county for agricultural department.

(4) Where an Agricultural Department is established by the Minister in a continuation school the council of the county in which the continuation school is situate shall on or before the 15th day of December in each year pay to the board of the school in which such department is established the sum of \$500 which shall be applied by the board to the purposes of such department.

Apportionment with schools situate in municipality or section forming part of two or more counties.

(5) Where the continuation school is situate in an urban municipality or in a union school section parts of which are in two or more counties the amount payable under subsections 1 and 4 by the corporation of each county shall be determined in the manner provided by section 29 of *The Public Schools Act*. 3-4 Geo. V. c. 72, s. 8.

Admission of pupils.

9. Pupils whether resident or non-resident may be admitted to a continuation school in accordance with the Regulations governing the admission of pupils to high schools. 3-4 Geo. V. c. 72, s. 9.

Qualification of teachers.

10. Every teacher appointed as principal or assistant in a continuation school shall possess the qualifications prescribed by the Regulations. 3-4 Geo. V. c. 72, s. 10.

11. The courses of study in continuation schools shall be such as are prescribed by the Regulations. 3-4 Geo. V. c. 72, s. 11. Courses of study.

12.—(1) Every continuation school which has been established under the provisions of Part II. of *The Continuation Schools Act*, passed in the ninth year of the reign of His late Majesty King Edward the Seventh, chaptered 90, shall be deemed to have been on and after the first day of July, 1913, and shall be a high school and, except as hereinafter expressly provided, shall be subject to the provisions of *The High Schools Act*. When continuation school becomes high school.
Rev. Stat. c. 268.

(2) The trustees of a continuation school holding office at the time it became a high school under the provisions of subsection 1 shall be deemed to have been the trustees of it until trustees were appointed under the provisions of *The High Schools Act* and the new board was organized. Term of office of existing trustees.
Rev. Stat. c. 268.

(3) The principal of a continuation school at the time it became a high school under this section shall, subject to the approval of the Minister, be qualified to continue to be the principal of such school until its staff has been increased by the addition of a teacher engaged for his whole time. When principal may continue as principal of high school.
3-4 Geo. V. c. 72, s. 12.

CHAPTER 268.

An Act respecting High Schools and Collegiate Institutes.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

GENERAL.

Short title. 1. This Act may be cited as *The High Schools Act*. 9 Edw. VII. c. 91, s. 1.

Interpretation. 2.—(1) In this Act—

“Board.” (a) “Board” shall mean a Board of High School Trustees.

“County judge” or “judge.” (b) “County Judge” and “Judge” shall mean the senior judge of the county or district court of the county or district in which the high school is or is to be situate, or, if he is a member of the High School Board or is unable to act or is disqualified, shall mean the junior judge of the county or district court, or if he is a member of the board or is unable to act or is disqualified, shall mean the judge of the county or district court of the adjoining county or district which has the largest population according to the last Dominion census;

“County pupils.” (c) “County pupils” shall mean pupils who reside or whose parents or guardians reside in the county in which the high school attended by such pupils is situate, but not within the limits of the high school district, and shall not include pupils who are resident pupils as herein defined;

“Department.” (d) “Department” shall mean Department of Education;

“High School.” (e) “High School” shall include a Collegiate Institute;

“High School District.” (f) “High School District” shall mean the municipalities and parts of municipalities over which a board has jurisdiction;

“Maintenance.” (g) “Maintenance” shall include ordinary repairs to the teacher’s residence, the school buildings, out-

houses, gymnasium, fences and school furniture; the improvement of the school grounds and the grounds attached to the teacher's residence; insurance of the school property, salaries of the teachers, officers and servants of the board, the expense of conducting entrance examinations, and other expenses for ordinary school purposes and for such annual additions to the library, apparatus and other appliances as may be required by the Minister or by the Regulations, and shall also include gratuities and retiring allowances granted to teachers;

- (h) "Minister" shall mean Minister of Education; "Minister."
- (i) "Municipality" shall include a city, town, village or township but not a county; "Municipality."
- (j) "Non-resident pupils" shall mean pupils other than county pupils and resident pupils as herein defined; "Non-resident pupils."
- (k) "Permanent improvements" shall include the purchase or rental of a residence for a teacher, or of a school site, the erection or rental of a school house, the enlargement of both or either of them, changing the system of heating or ventilation, the erection of fences, outhouses and gymnasium, the purchase of school furniture, maps and apparatus, library, and all other appliances required by the Regulations; "Permanent improvements."
- (l) "Regulations" shall mean Regulations made by the Minister under *The Department of Education Act*; "Regulations." Rev. Stat. c. 265.
- (m) "Resident pupils" shall mean pupils whose usual place of abode is within the high school district, or who are assessed or whose parents or guardians are assessed within the district for an amount equal to the average assessment of the ratepayers therein; "Resident pupils."
- (n) "Separated town" shall include a town separated for municipal purposes from the county in which it is situate, and a town in territory without county organization; "Separated town."
- (o) "Urban municipality" shall mean a city, town or village; "Urban municipality."

(2) Where reference is made to the population of a municipality or other locality or to a number of inhabitants or ratepayers the same shall be determined by the last enumeration by the assessor. References to population.

Certificate of clerk to be final.

(3) The certificate of the clerk of the municipality with respect to such population or number shall be final and conclusive. 9 Edw. VII. c. 91, s. 2.

HIGH SCHOOL CORPORATIONS.

Trustees to be a corporation.

3.—(1) The trustees of every high school district shall be a corporation by the name of "The High School Board of," or "The Collegiate Institute Board of," as the case may be, adding the name of the municipality within which the high school or collegiate institute is situate.

Term of office.

(2) The trustees of every high school district shall hold office until their successors are appointed and the new board is organized. 9 Edw. VII. c. 91, s. 3.

HIGH SCHOOL DISTRICTS.

Existing high school districts confirmed.

4. Whenever a high school district has existed in fact for three months and upwards, and whether the same has been formed in accordance with the provisions of the law or not, it shall be deemed to have been legally formed and shall continue to exist, subject, however, to the provisions of this Act as far as applicable, as if such district had been formed thereunder, unless in the meantime proceedings have been taken calling in question the legal status of such district and notice thereof has been given to the persons who ought, according to the practice of the court in which the proceedings are taken, to be served with notice thereof, and such proceedings result in its being determined that such district has not been legally formed. 9 Edw. VII. c. 91, s. 4.

Lands not relieved from rates.

5. The county council may on the petition of any municipal council detach the municipality or any part thereof from any district formed by by-law of the county council, but any change made in the boundaries of a district shall not relieve the taxable property of the district or any part thereof from the rates imposed for the payment of debentures or from any other debts incurred before such change. 9 Edw. VII. c. 91, s. 5.

Unions of municipalities or portions thereof for high school purposes.

6.—(1) The council of any county on the petition of two-thirds of the ratepayers of any municipality or part thereof situate within such county and contiguous to any high school district or village or to a town containing less than three thousand inhabitants in such county, may by by-law unite such municipality or part thereof to such district, village or town for high school purposes; and the union shall take effect on the first day of January next following the expiration of six months after the passing of the by-law.

Dissolution of Union.

(2) The county council on the petition of two-thirds of the ratepayers of any municipality or part thereof united to any such district, village or town may by by-law dissolve

the union; but no such by-law shall come into operation until the first day of January next following the expiration of six months after the passing thereof, nor relieve the municipality or any part thereof from any rates imposed for the payment of debentures nor from any other debts incurred while such union existed.

(3) Where two municipalities become united all the assets of the boards of both municipalities shall forthwith be vested in, and all the liabilities of such boards shall forthwith become liabilities of, the board of the united municipality. Assets vested in board of united municipality.
9 Edw. VII. c. 91, s. 6.

NEW HIGH SCHOOLS.

7.—(1) On or before the first day of July in any year the council of a county may, with the approval of the Minister, pass by-laws for the establishment of a new high school district Establishment and discontinuance of high schools.

(a) for a municipality not separated from the county containing at least one thousand inhabitants, and the council of any county may in like manner, with the approval of the Lieutenant-Governor in Council, discontinue at the end of the current calendar year any high school district thereafter established;

(b) for two or more townships or parts of townships within such county, if there are at least three thousand inhabitants within the proposed district, and if at least two-thirds of the ratepayers of each of such townships or parts of townships petition for such high school district;

(c) in a village in such county or in a town therein not separated from the county, including within the proposed district the village or town and the whole or a part of any municipality or municipalities in such county contiguous to such village or town, if the whole of such proposed district contains at least three thousand inhabitants, and if two-thirds of the ratepayers in each municipality or part of a municipality to be included in such district sign a petition for such high school district.

(2) In the case provided for by clause (b) of subsection 1 the high school shall be located at such place as is named in the petition. Location of school.
9 Edw. VII. c. 91, s. 7.

8. The council of a city or separated town may, with the approval of the Minister, establish as many high schools in such city or separated town as it may deem expedient. In cities, and separated towns.
9 Edw. VII. c. 91, s. 8.

COURSES OF STUDY.

Course of instruction.

9.—(1) The courses of study shall be those prescribed by the Regulations.

Collegiate Institutes.

(2) Any high school which complies with the Regulations with respect to collegiate institutes may be raised to the rank of a collegiate institute by the Minister.

Reducing collegiate institutes.

(3) The Lieutenant-Governor in Council may, upon the report of the Minister, reduce a collegiate institute to the rank of a high school. 9 Edw. VII. c. 91, s. 9.

Military instruction.

10.—(1) A board may establish classes in military instruction, appoint a qualified drill instructor and provide uniforms for such classes.

Grants for athletics.

(2) A board may annually vote a sum not exceeding \$150 for each high school within its jurisdiction for the encouragement of athletics and to defray the expenses of school games. 9 Edw. VII. c. 91, s. 10.

Instruction in agriculture.

11. A high school board, a public school board and a continuation school board, or any one or more of such boards may engage the services of any person holding the degree of Bachelor of the Science of Agriculture or other certificate of qualification from the Ontario Agricultural College and approved by the Minister to give instruction in agriculture to the pupils of their respective schools; and the instructor shall perform such duties and the funds set apart for instruction in agriculture shall be expended for such purposes as may be prescribed by the Regulations. 9 Edw. VII. c. 91, s. 11; 2 Geo. V. c. 76, s. 18.

TRUSTEES.

Qualification of trustees.

12. Any ratepayer who is a British subject, has attained the age of 21 years, resides in the high school district and who is not a member or officer of a municipal council shall be qualified to be a high school trustee. 9 Edw. VII. c. 91, s. 12.

Number of trustees.

13. Every high school board shall consist of at least six trustees. 9 Edw. VII. c. 91, s. 13.

Appointment of trustees.

14.—(1) In the case of a high school situate in a municipality of the county not being a city or a separated town, three of such trustees shall be appointed by the county council and additional trustees shall be appointed as follows:—

(a) Where the district comprises one municipality the council thereof shall appoint three additional trustees;

(b) Where the district comprises two municipalities each council shall appoint two additional trustees; and

(c) Where a district comprises more than two municipalities each council shall appoint one additional trustee.

(2) A part of a municipality which is assessed for at least \$50,000 shall be deemed a municipality for the purposes of this section. What may be deemed a municipality.

(3) One of the trustees appointed by the county council and one trustee appointed by each other council shall retire each year. 9 Edw. VII. c. 91, s. 14. Annual retirement of trustees.

15. Where a high school district comprises the whole of a county the county council shall appoint six trustees, two of whom shall retire each year. 9 Edw. VII. c. 91, s. 15. Where district composed of county.

16.—(1) In a city and in a separated town the council shall appoint six trustees, and the trustees so appointed shall, with such additional trustees as are authorized by this Act, form the board. Trustees in cities and separated towns.

(2) The council shall provide for the annual retirement of two of the trustees appointed by them so as to secure a complete rotation every three years. 9 Edw. VII. c. 91, s. 16. Retirement by rotation.

17.—(1) Where the board of a high school situate in a city or in a separated town notifies the county clerk that the high school is open to county pupils on the same terms as high schools in municipalities not separated from the county, the county council may, from time to time, appoint three additional trustees for such high school so long as the school is open to county pupils on such terms, and such high school shall for all the purposes of this Act be considered a county high school. 9 Edw. VII. c. 91, s. 17. Admission of county pupils to city or town school.

(2) The board of a high school situated in a city, town or village in a district without county organization may, by resolution, provide that the pupils of any municipality in such district shall have the right to attend such high school on the same terms as the pupils living in the city, town or village in which the high school is situate on the condition that the council of such municipality pay to such high school board the cost *pro rata* of the maintenance of such high school according to the number of pupils in attendance thereat from such municipality. Admission of non-resident pupils in unorganized territory.

(3) The council of any municipality in respect to which a resolution has been passed by a high school board under subsection 2 may by by-law provide for the raising of the necessary money and the payment of the same to such high school board in accordance with the resolution, and there-

upon the council shall be entitled to appoint a trustee to the board in addition to the other members of the board provided for by this Act.

Term of office of trustee.

(4) A trustee appointed under subsection 3 shall hold office for three years and until his successor has been duly appointed, and shall have all the rights, powers and privileges of other members of the board with the exception that he shall not be entitled to vote on any matter relating to capital expenditure for land, buildings or permanent improvements not contributed to by the municipality appointing him. 10 Edw. VII. c. 104, s. 1.

Order of retirement of trustees.

18. The council which has the power and duty of appointing high school trustees shall provide for the order of their retirement. 9 Edw. VII. c. 91, s. 18.

Separate school board to appoint a trustee.

19. The board of separate school trustees of a city, town or village in which a high school is situate may appoint to the board one trustee who shall not be a member of the separate school board and who shall hold office for one year. 9 Edw. VII. c. 91, s. 19.

Appointment by public school trustees in urban municipalities.

20. Except in the case of a board of education the public school board of every urban municipality and the board of a union public school section which includes an urban municipality may appoint one trustee who is not a member of the public school board to the high school board of such urban municipality, and he shall hold office for one year. 9 Edw. VII. c. 91, s. 20.

Vacancies caused by annual retirement.

21.—(1) Vacancies arising from the annual retirement of trustees shall be filled by the appointing body at its first meeting in each year after being organized.

Vacancies from other causes.

(2) Vacancies arising from death, resignation, removal from the high school district or county or otherwise shall be filled forthwith by the appointing body, and the person appointed to fill the vacancy shall hold office for the unexpired term of the person whose place has become vacant.

Where separated town is re-united to county.

(3) Where a separated town is re-united to the county the two trustees whose term of office shall first expire and one of the trustees whose term of office shall next expire, to be selected by lot, shall retire as soon as the county council has appointed three trustees, and the remaining three trustees together with three trustees to be appointed by the county council shall then constitute the board of the high school district. 9 Edw. VII. c. 91, s. 21.

MEETINGS OF BOARD.

First meeting of board.

22.—(1) Unless all the members of the new board have been appointed and a date for the first meeting has been

decided upon by the old board, the first meeting of the board in each year shall be held at the hour of seven o'clock in the evening of the first Wednesday in February or at such other hour of the same day as may have been determined by resolution of the former board. 9 Edw. VII. c. 91, s. 22 (1); 2 Geo. V. c. 76, s. 19.

(2) At the first meeting in each year of every board and whenever the office of chairman becomes vacant then at the first meeting of the board after the vacancy occurs the members shall elect one of their number to be chairman. Election of chairman.

(3) The members of the board may also elect one of their number to be vice-chairman, and he shall preside in the absence of the chairman. Vice-chairman.

(4) If at any meeting there is no chairman or vice-chairman present the members present may elect a chairman for that meeting. Chairman pro tem.

(5) At the first meeting and as often as a vacancy occurs the board shall also elect a secretary and a treasurer or a secretary-treasurer who shall hold office during the pleasure of the board. Secretary and Treasurer.

(6) In the absence of the secretary from any meeting the chairman or other member presiding may appoint any member or person present to act as secretary for that meeting. Secretary pro tem.

(7) The presence of a majority of all the members constituting the board shall be necessary to form a quorum. Quorum.

(8) The secretary or secretary-treasurer shall preside at the first meeting until the chairman is elected, or if there is no secretary or secretary-treasurer then such member of the board shall preside as may be elected for that purpose. Chairman at first meeting.

(9) In case of an equality of votes at the election of chairman the trustee who is assessed for the largest sum on the last revised assessment roll shall have a second or casting vote. Equality of votes on the election of chairman.

(10) The presiding officer may vote with the other members of the board on all questions, and any question on which there is an equality of votes shall be deemed to have been negatived. 9 Edw. VII. c. 91, s. 22 (2-10). In other cases.

SECURITY OF TREASURER AND SECRETARY-TREASURER.

23.—(1) Every treasurer and every secretary-treasurer shall give security for the due and faithful performance of his duties and shall submit his accounts to the auditors of the municipality in which the high school is situate. Security to be given by treasurer and secretary-treasurer.

(2) It shall be the duty of the auditors to audit such accounts in the same way as the municipal treasurer's accounts are audited. 9 Edw. VII. c. 91, s. 23. Audit.

DUTIES OF BOARD.

Duties of trustees.

24. It shall be the duty of every board and it shall have power:—

Fix meetings of board.

- (a) to fix the times and places for the meetings of the board and the mode of calling and conducting them, and to see that a full and correct account is kept of the proceedings thereat;

Conduct of school.

- (b) to see that the school is conducted according to this Act and the Regulations; 9 Edw. VII. c. 91, s. 24 (a-b).

Accommodation for pupils.

- (c) to provide adequate accommodation according to the Regulations for all pupils, and in its discretion establish summer or vocational schools. 9 Edw. VII. c. 91, s. 24 (c); 2 Geo. V. c. 76, s. 20.

Charge of high school.

- (d) to take charge of the school, to keep the school buildings and premises in proper repair, to provide suitable furniture and equipment and to protect the property of the board;

Collection of fees for tuition.

- (e) subject to the provisions of this Act, to fix the amount to be paid by parents and guardians for each pupil attending the school, and the times of payment and, when necessary, to enforce payment thereof;

Security of treasurer or secretary-treasurer. Orders for salaries and expenses.

- (f) to take proper security from the treasurer or secretary-treasurer;
- (g) to give the necessary orders upon the treasurer for the payment of gratuities or retiring allowances of teachers and the salaries of the teachers and other officers and servants of the board, and of such other expenses for promoting the interests of the school as may be authorized by the board;

Applications to councils, how made.

- (h) to apply to the municipal council liable under this Act on or before the 1st day of August, or at such time before that day as may be required by the council, for such sums as the board may require for the maintenance of the school for the twelve months next following the date of such application apart from fees from pupils, the appropriation from the Legislative grant, the contribution by the county council and the revenue from other sources, and for such additional sum as may be deemed expedient for permanent improvements for the same period not exceeding \$500;

Expulsion of pupils.

- (i) to expel, on the report of the principal, any pupil whose conduct may be deemed injurious to the

welfare of the school, and to exclude any pupil whose parents or guardians neglect or refuse to pay the fees of such pupil after reasonable notice;

- (j) to appoint and remove such teachers, officers and servants as it may deem expedient, and to fix their salaries and prescribe their duties; Appointment and removal of teachers.
- (k) to certify to the treasurer of the county on or before the 1st day of August in each year the amount of fees collected from county pupils for the next preceding calendar year; Certify fees received.
- (l) to prepare and transmit on or before the 15th day of January in each year to the Minister the annual report in accordance with forms provided by the Department. 9 Edw. VII. c. 91, s. 24 Annual report to Minister.
(d)-(l).

25. The board may—

- (a) purchase for the use of pupils text books and other school supplies, and either furnish the same to them free of charge or collect for the use thereof from such pupils or their parents or guardians a sum not exceeding twenty-five cents per month for each pupil to defray the cost thereof; Purchase books and supplies, and furnish same free or collect fees for the use thereof.
- (b) provide books, stationery and other materials necessary in connection with the establishment and maintenance of a Penny Savings Bank, or any system introduced for the encouragement of thrift and the habit of saving; 9 Edw. VII. c. 91, s. 25 Penny Savings Bank.
(a-b).
- (c) provide and pay for such dental and medical inspection of the pupils as the Regulations may prescribe, or in the absence of Regulations, as the board may deem proper; 3-4 Geo. V. c. 70, s. 29. Dental and medical inspection.
- (d) pay the travelling expenses of any member of the board or of any teacher in the employment of the board incurred in attending meetings of the Ontario Educational Association or other like association of teachers or trustees in Ontario. 3-4 Geo. V. c. 70, s. 30. Travelling expenses attending educational association.

26. Where there are more high schools than one in an urban municipality the board may appoint a supervising principal having the qualifications of a high school principal who, subject to the Regulations, shall perform such duties in connection with the high schools as may be assigned to him by the board. 9 Edw. VII. c. 91, s. 26. Supervising principal in urban municipality.

PROPERTY VESTED IN BOARDS.

High school
property
vested in
trustees.

27.—(1) All property heretofore granted or devised to, acquired by or vested in any person or corporation for the high school purposes of any locality, or which may hereafter be so granted, devised, acquired or vested shall be vested in the board having jurisdiction in such locality.

Power to
sell or con-
vey, etc.

(2) The board shall have full power to sell, convey, transfer or lease such property, or any part thereof, upon the adoption of a resolution by the board that the property is no longer required for high school purposes, and the proceeds of such sale, transfer or lease shall be applied for high school purposes. 9 Edw. VII. c. 91, s. 27.

Power to
sell site.

28. A board, with the approval of the municipal council or of a majority of the municipal councils having jurisdiction within the high school district, and of the Minister, may sell and transfer any site or other property vested in the board, and after making provision for all debts and liabilities of the board may apply the residue of the proceeds to any purpose that may be approved by the Minister, and thereupon the Lieutenant-Governor in Council may by proclamation declare the corporation dissolved. 9 Edw. VII. c. 91, s. 28.

SCHOLARSHIPS.

Establishment
of scholarship.

29. Any person may, with the approval of the board, found a scholarship or prize. 9 Edw. VII. c. 91, s. 29.

Scholarships
for public
and separate
school pupils.

30.—(1) A board may annually award five scholarships to the pupils of the public or separate schools situate within the high school district.

Number and
mode of
awarding.

(2) The number of such scholarships shall be fixed by the high school board which may award the same by competitive examinations or otherwise and may prescribe the tenure of such scholarships and provide for the expenses of holding examinations therefor.

Who may
receive.

(3) A scholarship shall be awarded only to a pupil who is a ratepayer or the child of a ratepayer in a municipality contributing to the maintenance of the high school. 9 Edw. VII. c. 91, s. 30.

Free scho-
larships.

31.—(1) A board may annually award free scholarships to the pupils on the results of form or other examinations.

Rules as to.

(2) The board may make such rules and regulations regarding such scholarships as it may deem expedient. 9 Edw. VII. c. 91, s. 31.

32.—(1) Subject to the Regulations the high school board of a city or town may make such annual grant as may be deemed proper for the establishment or in aid of a superannuation fund for the teachers and officers of the board of such city or town, and may make rules prescribing the terms and conditions upon and under which they shall be entitled to participate therein, and may make it a term of the engagement of a teacher or officer that he shall contribute to the fund such annual sum as may be prescribed by such rules. *See* 9 Edw. VII. c. 88, s. 108. Board may make annual grant to the superannuation fund.

(2) A board may invest any money received through legacy, gift, superannuation fund, or in its hands for the purposes of a superannuation fund or otherwise, and for such purposes shall have and may exercise the powers conferred upon trustees by *The Trustee Act*. 3-4 Geo. V. c. 70, s. 31. Investment of funds. Rev. Stat. c. 121.

MUNICIPAL GRANTS FOR MAINTENANCE.

33.—(1) The council of every county shall on or before the 15th day of December in each year pay to the board of every high school in towns not separated from the county, and in villages and townships within the county for the maintenance of the high schools, without any deduction on account of fees paid by county pupils, an amount equal to that apportioned by the Minister to such high school out of the legislative grant for the maintenance of high schools. Aid to high schools from counties.

(2) Where an Agricultural Department is established by the Minister in a high school the council of the county in which the high school is situate shall on or before the 15th day of December in each year pay to the board of the school in which such department is established the sum of \$500 which shall be applied by the board to the purposes of such department. 9 Edw. VII. c. 91, s. 33. County grant to agricultural department.

34.—(1) Where the cost of the maintenance of county pupils at a high school exceeds the amount apportioned by the Minister and the fees received from county pupils the county shall, in lieu of the equivalent of the amount apportioned out of the legislative grant, pay to the board a sum to be ascertained in the manner following:— When further grant from county to be made.

From the total cost of maintenance of the high school the amount apportioned out of the legislative grant shall first be deducted, the remainder shall be divided by the total number of days' attendance of all pupils at the school during the next preceding three years, and the resulting amount shall be multiplied by the total number of days' attendance of county pupils during the same three years, and from the resulting amount the fees received from county pupils shall be deducted and the remainder shall be the sum payable by such county. Mode of ascertaining county grant.

(2) Where a high school has not been in existence for three years the attendance shall be reckoned for the period during which it has been open. Reckoning attendance in case of new school.

Reference of
disputes to
county judge.

(3) The board and the county council may by agreement settle the amount to be paid by the county for the maintenance of county pupils in any year, but if they do not agree the same shall be settled by the Judge on the application of either party.

Not to affect
county aid.

(4) No agreement or settlement so made shall affect the apportionment of county aid authorized by section 39.

Award of
judge bind-
ing for 3
years.

(5) Where a high school has been in existence for three years or more an award made by the Judge shall be binding for three years, and where it has not been in existence for three years for one year only.

Statements
to be sub-
mitted to
judge.

(6) In case of a reference the board shall submit to the judge a detailed statement of all receipts and expenditures for maintenance of the high school for each of the preceding years or a less period under consideration, which shall be certified by the auditors, and a statement certified by the chairman of the board of the names, residences and attendance of all resident, non-resident and county pupils for each of such years or for such period, and giving a separate list with names and addresses of the county pupils on whose account the demand for payment is made, and a statement certified by the chairman of the amount apportioned out of the legislative grants and of all fees received from county pupils during each of such years or during such period, and shall also furnish to the judge such further information as he may require. 9 Edw. VII. c. 91, s. 34.

Maintenance
of county
pupils in
city or
town high
school.

35.—(1) Where the board of a city or a separated town has notified the county clerk that the high school is open to county pupils on the same terms as high schools in the municipalities not separated from the county are open to such pupils the county council shall, on or before the 15th day of December in each year, pay a sum equal to eighty per cent. of the cost of the maintenance of county pupils at such high school.

Maintenance
of pupils from
adjacent
county.

(2) Where the board of a city, town, village or township has notified the clerk of any county adjacent to that in which the high school is situate that such high school is open to pupils resident in such adjacent county on the same terms as to county pupils the council of such adjacent county shall, on or before the 15th day of December in each year, pay for the maintenance of pupils from such county attending such high school a sum equal to sixty-five per cent. of the cost of the maintenance of pupils at such high school.

Certain cities
excepted.

(3) Subsections 1 and 2 shall not apply to a city which has a population of 50,000 or over.

Contribution
by city council
to cost of
maintenance
of pupils at
school in
adjoining
municipality.

(4) Where the board of a municipality contiguous to a city gives notice to the city clerk that such high school is open to city pupils on the same terms as it is open to the resident pupils of the municipality in which the high school is situate the council of the city shall, on or before the 15th day of

December in each year, pay to the board eighty per cent. of the cost of maintenance of city pupils at the high school.

(5) The amount payable under subsections 1, 2 and 4 shall be ascertained as follows:—

Mode of
ascertaining
amount pay-
able by city.

From the total cost of maintenance of the high school the amount apportioned out of the legislative grants shall first be deducted; the remainder shall be divided by the total number of days' attendance of all pupils at such high school during the year for which payment is to be made; the resulting amount shall be multiplied by the total number of days' attendance of pupils in respect of whom such county or municipality is liable; the percentage prescribed by the subsection under which payment is to be made shall then be determined, and from that amount the fees paid by such pupils shall be deducted, and the resulting amount shall be the sum payable by such county or municipality.

(6) Where the parties do not agree as to the amount so payable the same shall be ascertained by the judge on the application of either party.

Reference of
disputes
to judge.

(7) On the reference to the judge the board shall submit to him statements similar to those mentioned in subsection 6 of section 34, certified in a similar manner, and shall furnish such further information as he may require. 9 Edw. VII. c. 91, s. 35.

Statements
to be sub-
mitted to
judge.

36. The costs of a reference to the judge under sections 34 or 35 shall be in his discretion and the amount thereof shall be fixed by him and he may direct to and by whom and in what manner the same shall be paid. 9 Edw. VII. c. 91, s. 36.

Costs of
reference to
judge.

COLLECTION OF RATES.

37. The council or councils having jurisdiction shall levy and collect each year in their respective municipalities or the parts thereof within the high school district such amount as the board may deem necessary for the maintenance of the high school in addition to that received from the county council and from other sources under this Act, and a further sum, not exceeding \$500 in any one year, if required by the board for permanent improvements, and such amount shall be levied by one uniform rate over the whole district. 9 Edw. VII. c. 91, s. 37.

Councils to
levy rates in
high school
districts.

GRANTS FOR PERMANENT IMPROVEMENTS.

38.—(1) Where the sum required by a board for permanent improvements exceeds \$500 the same shall be raised on the application of the board by the issue of municipal debentures as herein provided, and all sums required to pay off such debentures and to pay interest thereon and the expenses con-

Grants for
permanent
improvements
exceeding
\$500.

nected therewith shall be raised by assessment on the ratepayers of the municipality or municipalities or parts thereof comprising the high school district.

Application of board to council.

(2) The application of the board shall be made to the council or councils having jurisdiction over the high school district, and in it the board may state the minimum term of years, not exceeding thirty, within which the sum required is to be repaid.

Council to deal with application.

(3) The council, or, if more than one, each of the councils applied to, at its first meeting after receiving the application or as soon thereafter as possible shall consider and approve or disapprove the same; and if a vote in any council results in a tie the application shall be deemed to be disapproved by that council.

Issue of debentures.

(4) If the council or a majority of the councils, where there are more than one, approve of the application the council of the municipality within which the high school is situate shall raise the sum required by the issue of debentures in the manner provided by *The Municipal Act*.

Rev. Stat. c. 192.

Submission of application to ratepayers.

(5) If the council, or half the number of councils where there are more than one, disapprove of the application such council, or each of such councils where there are more than one, on the request of the board shall submit the application to a vote of the electors of its municipality or of the part thereof comprised in the high school district in the manner provided by *The Municipal Act*, in the case of a money by-law.

Rev. Stat. c. 192.

When ratepayers approve application debentures to be issued.

(6) If a majority of the votes cast throughout the high school district are in favour of the application the council of the municipality in which the high school is situate shall in the manner provided by *The Municipal Act*, but without submitting any by-law to the electors, raise the required sum by the issue of debentures.

Rev. Stat. c. 192.

Council may act without submission to ratepayers.

(7) The council or councils having jurisdiction in a high school district or a majority of them may pass by-laws for the purpose of raising or borrowing money required by the board for permanent improvements without submitting the same to a vote of the electors.

Proportionate liability for debenture debt.

(8) Where a high school district comprises more than one municipality or parts of more than one municipality each municipality shall be liable for such proportion of the principal and interest payable under and of the expenses connected with the debentures as the equalized assessment of that part of the high school district which is within such municipality bears to the equalized assessment of the whole district, and the council of each of the other municipalities shall pay its proportion to the council of the municipality which has issued the debentures.

(9) A debenture may be for such term of years, not exceeding thirty and not less than that mentioned in the application of the board, as the municipal council or councils concerned or a majority of them may think proper, or the council or councils or a majority of them shall, if the board has so requested, and may whether such request has been made or not, make the debenture debt payable by annual or other instalments in the manner provided by *The Municipal Act*. Term of debentures.
Rev. Stat. c. 192.

(a) The council or councils of a municipality or municipalities liable for more than one-half of such debt shall for the purposes of this subsection be deemed a majority.

(10) Nothing in this section shall prevent the municipality in which the high school is situate from assuming the full cost of permanent improvements or from undertaking to pay any debentures that may be issued therefor notwithstanding that such municipality forms only a part of the high school district. 9 Edw. VII. c. 91, s. 38. Municipality in which high school is situated may assume full cost of permanent improvements.

39.—(1) The council of any municipality or county may raise by assessment, in addition to any sum which it is required by this Act to raise, such further sums as it may deem expedient for the maintenance or permanent improvement of a high school, provided that, in the case of a county, any additional sum so raised shall be apportioned, except as hereinafter provided, among all the high schools of the county in proportion to the liability of the county to each board. Council may raise further sum for high school purposes.

(2) The council of a county may by a two-thirds vote of all the members thereof pass by-laws for granting additional aid to any one or more of the high schools in the county without making a similar provision for the other high schools therein. 9 Edw. VII. c. 91, s. 39. County council may make grants to particular schools.

40.—(1) All money which a municipal council is required by this Act to collect for permanent improvements shall be paid to the treasurer of the board on or before the 31st day of December of the year in which application was made by the board for such money. Payment of grants permanent improvements.

(2) All money which a council is required to collect by assessment, or to raise by way of loan or otherwise, for the maintenance of a high school shall be paid from time to time to the treasurer of the board as the board may require. 9 Edw. VII. c. 91, s. 40. For maintenance.

41. The council of united counties may apportion the amount to be levied for high school purposes so that each county shall be liable only for the maintenance of the high schools within such county, but in such case each of the counties shall pay for the maintenance of pupils residing therein who attend any high school situate in any other of the counties. 9 Edw. VII. c. 91, s. 41. Apportionment of high school grant in united counties.

HIGH SCHOOL FEES.

Fees of county pupils.

42.—(1) County pupils shall pay such fees as the county council may prescribe, but such fees shall be uniform for all high schools in the county, or in the case of united counties for each county in the union, and shall not exceed one dollar per month.

When scale of fees to take effect, duration.

(2) The scale of fees shall take effect from the beginning of the high school term next after the adoption thereof and shall continue in force for three years or for such term as may be agreed upon between the board and the county council.

County pupils attending high school in city or town.

(3) County pupils admitted to a high school situate in a city or in a separated town on the same terms as resident pupils shall pay the same fees as are paid by resident pupils.

Non-resident pupils.

(4) Non-resident pupils shall pay such fees as the board may prescribe, but such fees shall not be greater than the average cost per pupil of maintenance of the high school nor less than the fees imposed by the council on county pupils.

Resident pupils.

(5) Resident pupils shall pay such fees as the board may prescribe.

Council may pay fees.

(6) The council of a municipality not included, or not wholly included, in a high school district may provide by assessment for the payment of any fees imposed by the county council on county pupils who reside in such municipality, or by the board on non-resident pupils who reside in such municipality; but in the case of a municipality not wholly included such assessment shall be confined to the part which is not included within the high school district.

Fees to be paid to treasurer.

(7) The fees payable under this section shall be payable to the treasurer of the board. 9 Edw. VII. c. 91, s. 42.

What school pupils may attend.

43. County pupils shall have the right to attend any high school aided by the council of the county in which they or their parents or guardians reside. Resident pupils shall have the right to attend the high school of the district in which they or their parents or guardians reside. Non-resident pupils may attend any high school at the discretion of the Board. 9 Edw. VII. c. 91, s. 43.

HIGH SCHOOL ENTRANCE EXAMINATIONS.

General.

Who may be admitted to high schools.

44. Subject to the Regulations—

- (a) Candidates who pass the uniform entrance examination for high schools held by boards of examiners provided for in this Act shall be granted admission to the high schools.

- (b) Candidates who have completed the course prescribed for the fourth form of the public school or who have in the opinion of a board of examiners completed a course which gives them an equivalent standing may in the discretion of such board of examiners be by it admitted to the high schools without passing such entrance examination. 9 Edw. VII. c. 91, s. 44; 3-4 Geo. V. c. 70, s. 32.

- (c) A candidate shall be entitled to enter a high school while it is conducted at night if in the opinion of the principal of the high school and of the public school inspector or the chief public school inspector of the high school district, after due examination or other investigation, he is competent to take up the subjects as prescribed by the Regulations; but such admission shall not entitle him to admission to the high school when conducted by day. 3-4 Geo. V. c. 70, s. 33.
- Provision for attendance at high school conducted at night.

45.—(1) Subject to the Regulations the Minister may establish an examination for entrance to the middle school of the high schools for those who have completed the course prescribed for the lower school of the high schools, and such examinations shall be known as "The Senior High School Entrance Examination."

Examination for entrance into middle school of high school.

(2) After the establishment of such examination the entrance examination provided for by section 44 shall be known as "The Junior High School Entrance Examination."

"The Junior High School Entrance Examination."

1 Geo. V. c. 17, s. 56 (3).

46.—(1) Subject to the Regulations any person actually engaged in teaching in the high school district, if a qualified examiner can be obtained therein, who holds—

Who may be examiners at entrance examinations.

- (a) a permanent High School certificate, or
- (b) a permanent First Class certificate, or
- (c) a Provincial Second Class certificate, and has had five years' experience as a teacher

may be appointed a presiding officer or a member of a board of examiners. 9 Edw. VII. c. 91, s. 45; 2 Geo. V. c. 76, s. 21.

(2) The Minister may suspend any member of the board from membership therein for such period as he may deem expedient in case of the failure of such member to properly observe the Regulations with regard to High School Entrance Examinations or of being guilty of other misconduct in office.

Member of board may be suspended for non observance of regulations, etc.

(3) The Minister may appoint some other qualified person to act in the place of the member so suspended. 3-4 Geo. V. c. 70, s. 34.

Appointment during suspension.

In the Counties.

Centres to be established.

47.—(1) (a) In a county in which one or more high schools have been established one or more examination centres shall be established by the high school board from time to time in each district and in other parts of the county by the county council. The county clerk or the secretary of the board, as the case may be, shall give due notice to the public school inspector of the establishment of such centres, and the inspector shall attach each centre established by the county council to the centre or centres of one of the high school districts. 9 Edw. VII. c. 91, s. 46 (1) (a).

One board of examiners for each district.

(b) A high school district shall be under one board of examiners. The public school inspector of an inspectorate in which a high school centre or attached county centre is situate and the high school principal or principals in the high school district shall be members of the board of examiners. The public school board and the board of separate school trustees, if any, of the city, town or village in which the high school is situate may each, on or before the first day of June in any year, appoint an additional member to the board. The county council may also on or before the 1st day of June in any year appoint the principal of one continuation school, having a staff of at least two teachers, to be a member of the board of examiners of the high school district to the centre or centres of which his county centre is attached. 9 Edw. VII. c. 91, s. 46 (1) (b); 2 Geo. V. c. 76, s. 22.

Examiners in counties not having a high school.

(2) (a) In a county in which no high school has been established, the county council, at its meeting in June in each year, shall appoint a county board of examiners, consisting of the public school inspectors, with as many more members as may appear to be necessary, and preference shall be given to the principals of the continuation schools of the county.

County centres.

(b) The county council shall also establish such county centres as it may deem necessary, and the county clerk shall notify the public school inspectors of the establishment of such centres.

Additional examiners.

(3) Subject to the Regulations, every board of examiners shall in each year appoint such additional members as may be required.

Payment of examiners' fees.

(4) Subject to the Regulations, the expenses of the examination shall be paid, on the requisition of the chairman of the board of examiners, in the case of county centres by the treasurer of the county, and in the case of the high school district centres by the treasurer of the high school board.

Candidates' fees.

(5) The county council or the high school board, as the case may be, may impose a fee not exceeding \$1 upon each candidate at the county and the high school district centres, which shall be paid by the candidate as prescribed by the Regulations, and shall be paid over at or before the close of

the written examination to the treasurer of the county or of the board, as the case may be. 9 Edw. VII. c. 91, s. 46 (2-5).

In the Territorial Districts.

48.—(1) (a) Where there are one or more high schools in a public school inspectorate in territory without county organization there shall be a board of examiners for each high school. The inspector for the inspectorate in which the high school is situate and the high school principal or principals in the high school district shall be members of the board. The public school board and the board of separate school trustees, if any, of the city, town or village in which the high school is situate may each, on or before the first day of June of any year, appoint an additional member. Subject to the Regulations, the board of examiners in each year shall appoint such additional members as may be required, and preference shall be given to the principals of continuation schools in the inspectorate. Examiners in territorial districts.

(b) One or more centres shall be established by the high school board in each high school district and, with the approval of the Minister, other centres may be selected and attached by the public school inspector to one of the high school district centres in his inspectorate. Examination centres.

(2) (a) In an inspectorate in which no high school has been established there shall be a board of examiners consisting of the public school inspector and as many more members as may appear to him to be necessary appointed by the inspector, with the approval of the Minister, and preference shall be given to the principals of continuation schools in the inspectorate. Where no high school has been established.

(b) In such inspectorates the centres shall be selected by the inspector with the approval of the Minister.

(3) Subject to the Regulations, the expenses of the examinations shall be paid by the Minister out of any money appropriated by legislation and applicable to that purpose. 9 Edw. VII. c. 91, s. 47. Expenses: how borne.

HIGH SCHOOL TEACHERS.

49.—(1) No person shall be appointed principal or assistant teacher in a high school who does not possess the qualifications prescribed by the Regulations. 9 Edw. VII. c. 91, s. 4 (2); 3-4 Geo. V. c. 70, s. 35. Qualification.

(2) Every teacher of a high school shall in the organization, discipline, management and classification of the pupils be subject to the Regulations.

(3) The provisions of *The Public Schools Act* respecting superannuation shall apply to teachers of high schools. 9 Edw. VII. c. 91, s. 48 (3-4). Superannuation. Rev. Stat. c. 266.

AGREEMENTS.

Proportion of salary to which teacher entitled.

50.—(1) A teacher who enters into an agreement with a board for one year and who serves under such agreement for three months or over shall be entitled to be paid his salary in the proportion which the number of days during which he has taught bears to the whole number of teaching days in the year. 9 Edw. VII. c. 91, s. 49 (1).

Sickness or dental treatment.

(2) A teacher shall be entitled to his salary notwithstanding his absence from duty on account of sickness for a period not exceeding four weeks in any one year of his employment if the sickness is certified to by a physician, or in a case of acute inflammatory condition of the teeth or gums by a licentiate of dental surgery; but the period of four weeks may in any case of sickness be allowed and extended at the pleasure of the Board without a certificate. 9 Edw. VII. c. 91, s. 49 (2); 1 Geo. V. c. 17, s. 56 (1).

Suspension for neglect of duty.

(3) A high school inspector may, on the complaint of a board, suspend the certificate of a teacher who wilfully neglects or refuses to carry out his agreement with the board, but the teacher may appeal to the Minister who may make such order with regard to the suspension as he may deem proper.

Disputes between teachers and trustees.

(4) All matters of difference between boards and teachers in regard to salary or other remuneration, whatever may be the amount in dispute, shall be determined in the Division Court of the division in which the cause of action arose, subject to the same right of appeal as under *The Public Schools Act*. 9 Edw. VII. c. 91, s. 49 (3, 4).

Rev. Stat. c. 266.

RETIRING ALLOWANCES.

Retiring allowance to teachers.

51. Where a teacher or an officer whose time is entirely devoted to the work of the board retires, having reached the age of 60 years, or after having been for 20 years in the service of the board, the board may grant him an annual allowance not exceeding the salary which he was receiving at the time of his retirement, or may make a grant to him by way of gratuity of such sum as will represent not more than the present value of such allowance for his life computed on the basis of interest at the rate of four per centum per annum. 9 Edw. VII. c. 91, s. 50.

SCHOOL YEAR AND HOLIDAYS.

Terms.

52.—(1) The school year shall consist of three terms; the first shall begin on the first Tuesday of September and end on the 22nd of December, the second shall begin on the 3rd of January and end on the Thursday before Easter Day, and the third shall begin on the second Monday after Easter Day and end on the 29th of June.

(2) Every Saturday, every public holiday and every day ^{Holidays.} proclaimed a holiday by the council of the municipality in which the school is situate shall be a school holiday. 9 Edw. VII. c. 91, s. 51.

AUTHORIZED BOOKS.

53.—(1) A teacher shall not use or permit to be used as a ^{Text-books.} text-book in a high school any book except such as is authorized by the Regulations, and the Minister, upon the report of the inspector, may withhold the whole or any part of the legislative grant in respect of any high school in which any unauthorized book is so used.

(2) Subject to the Regulations an authorized text-book in ^{Change of text-books.} actual use in a high school may, with the written approval of the board, be changed by the teacher for any other authorized text-book on the same subject. 9 Edw. VII. c. 91, s. 52.

OFFENCES AND PENALTIES.

54. A high school trustee shall not enter into any contract, agreement, engagement or promise of any kind, either in his own name or in the name of another, and either alone or jointly with another, in which he has any pecuniary interest, profit, or promised or expected benefit with the board of which he is a member, or have any pecuniary claim upon or receive compensation from the board for any work, engagement, employment or duty on behalf of the board, and every such contract, agreement, engagement or promise shall be null and void, and a trustee violating the provisions of this section shall *ipso facto* vacate his seat, and the secretary shall forthwith notify the clerk of the municipality or the appointing body of the vacancy. 9 Edw. VII. c. 91, s. 53. ^{Seat vacated by interest in contract with board.}

55. No person shall be disqualified from being a member of a board or from sitting and voting on such board by reason only of his being proprietor of or otherwise interested in a newspaper or other periodical publication in which an advertisement is inserted by the board in the regular course of business, or which is subscribed for by the board, if such advertisement or subscription is paid for at the usual rate, but such member shall not be entitled to vote where his own account is in question. 9 Edw. VII. c. 91, s. 54. ^{Newspaper proprietors inserting official advertisements not disqualified from sitting on boards, etc.}

56. If a trustee is convicted of an indictable offence, or becomes insane, or, without being authorized by resolution entered upon the minutes, absents himself from the meetings of the board for three consecutive months, or ceases to be a resident within the county or municipality the council or school board of which appointed him, he shall *ipso facto* vacate his seat, and the secretary shall forthwith notify the clerk of the council of the county or municipality or other appointing body of the vacancy. 9 Edw. VII. c. 91, s. 55. ^{Seat vacated by conviction for crime, etc.}

Disturbing
schools.

57. Any person who wilfully interrupts or disquiets any high school by rude or indecent behaviour, or by making a noise either within the place where such school is kept or held or so near thereto as to interfere with the order or exercises of the school, shall for each offence incur a penalty not exceeding \$20. 9 Edw. VII. c. 91, s. 56.

Substitution
of unauthor-
ized text
books.

58. If a teacher negligently or wilfully permits an unauthorized book to be used as a text book by the pupils of his school the Minister, on the report of the inspector, may suspend such teacher and the board may also deduct from his salary a sum equal to so much of the legislative grant as has been withheld on account of such use or any less sum at its discretion. 9 Edw. VII. c. 91, s. 57.

Disqualified
persons acting
as trustees.

59.—(1) A trustee who sits or votes at any meeting of the board while disqualified under this Act shall incur a penalty of \$20 for every meeting at which he so sits or votes.

Penalty for
refusal to
perform duties.

(2) Every person appointed as trustee who has not refused to accept the office and who at any time refuses or neglects to perform its duties shall incur a penalty not exceeding \$20. 9 Edw. VII. c. 91, s. 58.

Disqualifica-
tion for hold-
ing certain
offices.

60. A trustee shall not be eligible for appointment as a high school teacher, nor shall the teacher of a high, public or separate school hold the office of high school trustee. 9 Edw. VII. c. 91, s. 59.

Liability for
neglect to
take security.

61. If a board refuses or neglects to take proper security from the treasurer or other person to whom they entrust school money and any school money is forfeited or lost to the board in consequence of such refusal or neglect every member of the board shall be personally liable for such money, and the same may be recovered by the board or any ratepayer or ratepayers interested therein suing on behalf of himself or themselves and all ratepayers of the high school district interested in any court of competent jurisdiction, but no member shall be liable if he proves that he made reasonable efforts to procure the taking of such security. 9 Edw. VII. c. 91, s. 60.

Trustee may
not be sec-
retary, treas-
urer, or
bondsmen.

62. A trustee shall not be appointed secretary, treasurer, or secretary-treasurer of the board or be bondsman or surety for the treasurer or secretary-treasurer or for any person entrusted with school money. 9 Edw. VII. c. 91, s. 61.

Duty to
deliver up
books or
money.

63.—(1) A treasurer, secretary or secretary-treasurer, or a person having been such treasurer, secretary or secretary-treasurer, and a trustee or other person who has in his possession any book, paper, chattel or money which came into his possession as such treasurer, secretary, secretary-treasurer, or trustee or otherwise shall not wrongfully withhold or neglect or refuse to deliver up or account for and pay over the same

to the person and in the manner directed by the board or by other competent authority.

(2) Upon application to the judge by the board, supported by affidavit, showing such wrongful withholding or refusal the judge may summon such treasurer, secretary, secretary-treasurer, trustee or person to appear before him at a time and place appointed by him. Summons for appearance.

(3) A bailiff of a division court upon being required so to do by the judge shall serve the summons, or a true copy thereof, on the person complained against personally or by leaving the same with a grown-up person at his residence. Service of summons.

(4) At the time and place so appointed the judge, if satisfied that service has been made shall, in a summary manner, and whether the person complained against does or does not appear, hear the complaint, and if he is of opinion that it is well founded may order the person complained against to deliver up, account for and pay over such book, paper, chattel or money by a day to be named by the judge in the order, together with such reasonable costs incurred in making the application as the judge may allow. Order to account

(5) In the event of non-compliance with the order the Judge may order such person to be forthwith arrested by the sheriff of any county or district in which he may be found, and to be committed to the common gaol of the county or district in which he resides, there to remain without bail until the judge is satisfied that he has delivered up, accounted for or paid over the book, paper, chattel or money in the manner directed by the board or other competent authority. Effect of non-compliance with judge's order.

(6) Upon proof of his having so done the judge shall make an order for his discharge and he shall be discharged accordingly. Discharge on complying with order.

(7) Upon proof that such person has done all in his power to deliver up, account for or pay over such book, paper, chattel or money as directed the judge may order his discharge on such terms or conditions as he may deem just. Discharge on terms.

(8) Such proceedings shall not impair or affect any other remedy which the board or other competent authority may have against the person complained against or against any other person. 9 Edw. VII. c. 91, s. 62. Other remedy not affected.

64. It shall be the duty of a board and of the treasurer, secretary or secretary-treasurer to furnish the auditors with any papers and information in their power which may be required of them relative to the school accounts, and any member of the board and a treasurer, secretary or secretary-treasurer who neglects or refuses so to do shall incur a penalty not exceeding \$20. 9 Edw. VII. c. 91, s. 63. Penalties on trustees refusing information, etc., to auditor.

Penalty for
false school
reports and
registers.

65. If a trustee knowingly signs a false report, or if a teacher keeps a false school register or makes a false return, such trustee or teacher shall for every offence incur a penalty not exceeding \$20. 9 Edw. VII. c. 91, s. 64.

[N.B.—*A trustee, teacher, inspector or officer of the Department of Education who is concerned or interested in the sale of books or supplies, and any one employing or paying him to act as agent or otherwise, are liable to the penalties imposed by The Department of Education Act. Rev. Stat. c. 265.*]

Recovery of
penalties.
Rev. Stat. c. 90.

Who may
prosecute.

Payment and
application of
penalties.

66.—(1) The penalties imposed by this Act shall be recoverable under *The Ontario Summary Convictions Act*.

(2) Any ratepayer, trustee or high school teacher may take proceedings to recover any such penalty.

(3) Unless otherwise provided all such penalties shall be payable to the treasurer of the board of the high school district in which the offence was committed and shall be applied to high school purposes, except when the penalty is imposed upon a treasurer, secretary or secretary-treasurer, in which case the same shall be payable to the chairman of the board and shall be applied to high school purposes. 10 Edw. VII. c. 91, s. 65.

CHAPTER 269.

An Act respecting Boards of Education.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

GENERAL.

1. This Act may be cited as *The Boards of Education Act*. Short title.
9 Edw. VII. c. 94, s. 1.

2. In this Act— Interpretation.

- (a) "High School" shall include a Collegiate Institute; "High School."
- (b) "High school district" and "district" shall mean "High School District." the territory over which a high school board has jurisdiction;
- (c) "Municipal Board" and "Municipal Board of Education" shall mean a board of education organized pursuant to a resolution passed by the council of any city, town or village under the provisions of this Act or of the Act passed in the third year of the reign of His late Majesty King Edward VII., chaptered 31, or of the Act passed in the fourth year of His said late Majesty's reign, chaptered 33; "Municipal Board" or "Municipal Board of Education."
- (d) "Secretary" and "Treasurer" shall include a secretary-treasurer; "Secretary" or "Treasurer."
- (e) "Union Board" and "Union Board of Education" shall mean a board of education formed by the union of a high school board with one or more public school boards, pursuant to resolutions passed by the respective boards forming such union under the provisions of this Act or *The Public Schools Act* or *The High Schools Act* in force at the time such union was formed. Rev. Stat. c. 266.
Rev. Stat. c. 268. 9 Edw. VII. c. 94, s. 2.

MUNICIPAL BOARDS OF EDUCATION.

3. Every board of education heretofore organized under the authority of the Act passed in the third year of the reign of His late Majesty King Edward VII., chaptered 31, or of the Act passed in the fourth year of His said late Majesty's reign, chaptered 33, is hereby continued and shall Boards of Education formed under 3 Edw. VII., c. 31, and 4 Edw. VII., c. 33, continued.

continue to possess all the property, powers and rights and perform all the duties and be subject to all the obligations which it possessed, performed and was subject to at the time of the passing of this Act, and shall hereafter be subject to the provisions thereof relating to municipal boards. 9 Edw. VII. c. 94, s. 3.

Resolution
to form
Municipal
Board of
Education.

4.—(1) When a high school district does not extend beyond the limits of the municipality the council of a city, town or village in which one or more high schools are situate may, on or before the first day of October in any year, at a meeting specially called for the purpose, declare by resolution that it is expedient to form a municipal board of education under this Act.

May be passed
although union
board exists.

(2) Such resolution may be passed notwithstanding that a union board of education already exists in the municipality. 9 Edw. VII. c. 94, s. 4 (1, 2).

Submitting
question of
establish-
ment of
Board of
Education
to electors.

(3) The council shall, at the next succeeding municipal election, submit to a vote of the electors the question: "Are you in favour of the formation of a Municipal Board of Education," and in case the question is answered in the affirmative by a majority of the electors voting thereon, the elective members of the board shall be elected at the next ensuing municipal election, and the members to be appointed shall thereupon be appointed and the Board organized in accordance with the provisions of this Act. 1 Geo. V. c. 17, s. 57 (1).

Powers,
rights and
duties of.

(4) Upon the organization of the board all the property theretofore vested in such previous boards shall become vested in the municipal board, and all the debts, contracts and agreements for which the previous boards were liable shall become obligations of the municipal board. 9 Edw. VII. c. 94, s. 4 (4).

Composition
of Municipal
Boards.

5.—(1) Except as hereinafter provided every municipal board shall be composed as follows:—

(a) In a city having a population of not less than 50,000 or more, of fourteen members, twelve of whom shall be elected as hereinafter provided and two of whom shall be appointed by the separate school board of the city;

(b) In a city having a population of less than 50,000, of ten members, nine of whom shall be elected as hereinafter provided and one appointed by the separate school board of the city;

(c) In a town or village, of eight members, seven of whom shall be elected as hereinafter provided and one appointed by the separate school board of such town or village;

(d) Subject to the provisions of clause (e) where there is no separate school board, the board shall be composed of the elected members only; 9 Edw. VII. c. 94, s. 5 (1) (a-d).

(e) In the case of a municipal board having jurisdiction over a high school situate in a municipality not separated from the county the council of such county at their first meeting in the second year following the passing of the resolution mentioned in section 4 shall appoint three additional members of the board, one for one year, one for two years, and one for three years, and thereafter shall appoint a member to fill each vacancy as it occurs. 9 Edw. VII. c. 94, s. 5 (1) (e); 2 Geo. V. c. 76, s. 23.

Appointment by county councils to boards in towns not separated from county.

(2) A Board shall not be deemed incomplete by reason only of the failure of an appointing body to appoint the member or members which it has the right to appoint.

Board not to be incomplete by reason of failure to appoint.

(3) The members to be elected shall be elected by the general vote of the persons qualified to vote for public school trustees, and the election shall be held at the same time and place, by the same returning officer and in the same manner as the election of a mayor or reeve; and, save as otherwise provided, all the provisions of *The Public Schools Act* respecting the qualification of trustees and the election of trustees by ballot shall apply to the election.

Mode of election.

Rev. Stat. c. 266.

(4) The first election shall take place at the time of holding the municipal elections for the year following the passing of the resolution mentioned in section 4; but nothing in this Act shall affect any board having jurisdiction over any public school, high school or technical school during the year in which such resolution is passed.

First election of members of board.

(5) Every person qualified to vote shall be entitled to as many votes as there are members to be elected, but may not give more than one vote to any one candidate.

Number of votes for candidates.

(6) At the first election the full number of elective members shall be elected.

First election after organization.

(7) One-half of the members so elected where the number of elected members is an even number, and the next number higher than one-half where the number of elected members is an odd number, who receive the highest number of votes, shall continue in office for two years thereafter and until their successors are elected and the new board is organized, and the remaining members shall continue in office for one year and until their successors are elected and the new board is organized.

Term of office of first members.

(8) Where two or more members receive an equal number of votes at the first election and no agreement as to which of them shall retire is reached at the first meeting of such board,

Retirement where members have equal votes.

then at the next meeting the question shall be determined by lot to be cast by the secretary in presence of the board, and the result shall be entered upon the minutes of the meeting.

Subsequent elections.

(9) At each annual election after the first a sufficient number of members shall be elected for two years to fill the place of members retiring.

Retiring members eligible for re-election.

(10) The members retiring at the expiration of the terms for which they were respectively elected or appointed shall be eligible for re-election or re-appointment if otherwise qualified.

Appointment by separate school board.

(11) The appointment of a member or members by the separate school board shall be made at the first meeting thereof in the year in which the first election of the municipal board is held and at its first meeting in every second year thereafter.

Term of office.

(12) Any member so appointed shall hold office for two years and until his successor is appointed.

Members of appointing body not eligible.

(13) No member of a body having the right to appoint a member of a municipal board of education shall be eligible for appointment or election as a member of the board. 9 Edw. VII. c. 94, s. 5 (2-13).

Election of members by wards in cities of 200,000. Submission of question.

6.—(1) The council of any city having a population of not less than 200,000 may at any time before the first day of October in any year submit to a vote of the persons qualified to vote for public school trustees the question "Are you in favour of electing the Board of Education by wards?" The provisions of paragraph 10 of section 398 of *The Municipal Act*, shall with such variations as may be necessary apply to the taking of such vote.

Rev. Stat. c. 192.

How Board to be constituted if question answered in affirmative.

(2) In case the question is answered in the affirmative by a majority of the persons qualified to vote thereon the clerk of the city shall notify the secretary of the board of education in writing of the result of the voting, and all the members of the board of education shall cease to hold office on the 31st day of December of the same year, and thereafter the board shall consist of two members to be elected in each ward of such city and two members who shall be appointed by the separate school board.

First election.

(3) At the first election held after the question shall have been so answered in the affirmative the requisite number of members shall be elected; and in each ward the two candidates receiving the highest number of votes shall be elected, and as between themselves the candidate having the larger number of votes shall continue in office for two years and the other for one year and until their respective successors have been elected under this Act and the new board organized.

(4) At each annual election after the first term of office of each elected member shall be two years. Term of office.

(5) All the provisions of *The Public Schools Act* respecting the qualification and election of trustees shall apply to the election of such members. Provisions of Public Schools Act, Rev. Stat. c. 266, as to qualification and election to apply.

(6) Save as in this section is otherwise provided the provisions of this Act shall apply to a board of education organized under this section. 9 Edw. VII. c. 94, s. 6. Application of general provisions.

7.—(1) Where the office of an elected member becomes vacant from any cause before the expiration of the term for which he was elected a majority of the remaining elected members present shall, at the first regular meeting after the vacancy occurs, elect some duly qualified person to fill the vacancy and the person so elected shall hold office for the remainder of the term for which his predecessor was elected. Vacancies in cases of elected members.

(2) In case of an equality of votes the elected member having the largest number of votes at his election shall have a second or casting vote. Casting vote.

(3) In cities where trustees are elected by wards the vacancy shall be filled by an election in the ward in which the vacancy occurs. 10 Edw. VII. c. 26, s. 26 (1). Where trustees are elected by wards.

8.—(1) Where the office of an appointed member becomes vacant from any cause before the expiration of the term for which he was appointed the vacancy shall be filled forthwith by the appointing body, and the person appointed to fill the vacancy shall hold office for the remainder of the term for which his predecessor was appointed. Vacancies in cases of appointed members.

(2) When an appointing body fails to appoint a member at the prescribed time the appointment may be made subsequently, but the term of office of the person appointed shall expire as if he had been appointed at the time prescribed. 9 Edw. VII. c. 94, s. 8. Failure to appoint at prescribed time.

9. Unless all members of the new board have been appointed and a date for the first meeting has been decided upon by the old board the first meeting of every municipal board in each year shall be held at the hour of eight o'clock in the evening of the first Wednesday in February. 9 Edw. VII. c. 94, s. 9; 2 Geo. V. c. 76, s. 24. First meeting each year.

10. Every municipal board shall be a corporation by the name of "The Board of Education for the (*naming the city, town or village*)" and shall have and possess all the powers and perform all the duties which by this or any other Act are conferred or imposed upon a public school board, a high school board or a technical school board. 9 Edw. VII. c. 94, s. 10. Board to be a corporation.

INSPECTORS.

Minister to determine number of inspectors.

11.—(1) The Minister shall from time to time determine the number of public school inspectors to be appointed by a municipal board in any city or separated town. 1 Geo. V. c. 17, s. 57 (2).

Where more than one inspector, a chief inspector may be appointed.

(2) Where more inspectors than one are appointed the board may designate one of such inspectors "chief inspector" and the other or each of the others "inspector," and shall prescribe the duties of each. 9 Edw. VII. c. 94, s. 11 (3).

Union board to be dissolved on organization of municipal board.

12. Where a municipal board is organized under this Act in a municipality any union board of education then existing therein shall thereby be dissolved. 9 Edw. VII. c. 94, s. 12.

UNION BOARDS OF EDUCATION.

Union Boards of Education.

13.—(1) A high school board of a municipality in which a municipal board has not been organized and the board of public school trustees of the same municipality may unite as a union board of education on filing with the clerk of the municipality in which the high school is situate certified copies of resolutions providing for such union passed at separate meetings of each of the boards called for the purpose of considering such union.

Powers, rights and duties of former school boards.

(2) The union shall take effect on the next date following the passing of such resolutions fixed under this Act for the first meeting in each year of a union board, and upon the formation of such union board all property theretofore vested in the boards so uniting shall become vested in such union board, and all debts, contracts, agreements and obligations of the boards so uniting shall become debts, contracts, agreements and obligations of the union board.

Former trustees to continue in office.

(3) The members of the high school and public school boards forming the union who are then in office shall continue in office until the expiration of the terms for which they were respectively appointed or elected and shall be the members of the union board, and the trustees for such public and high schools shall continue to be appointed and elected as if the union had not been formed and when so appointed or elected shall be the members of the union board. 9 Edw. VII. c. 94, s. 13.

New trustees to be elected and appointed pursuant to public and high schools Acts.

To be a corporation.

14. Every union board shall be a corporation by the name of "The Board of Education for (*naming the municipality in which the high school is situate*)," and such corporation shall have all the powers, perform all the duties and be subject to all the obligations of high school and public school boards. 9 Edw. VII. c. 94, s. 14.

15.—(1) If at a meeting of a union board specially called for that purpose a majority of all the members of the board vote in favour of the dissolution thereof the board shall be dissolved on the next date, following such vote, fixed by this Act for holding the first meeting of union boards. Dissolution of Union boards.

(2) Where a board is dissolved the members thereof who are high school trustees shall constitute the high school board and shall continue in office for the remainder of the terms for which they were respectively appointed, and the members thereof who are public school trustees shall constitute the public school board and shall continue in office for the remainder of the terms for which they were respectively elected. On dissolution the different members to continue as members of separate boards.

(3) Upon the dissolution all property held or possessed by the union board for high school purposes shall forthwith vest in the high school board, and all property held or possessed by the union board for public school purposes shall forthwith vest in the public school board, and all property held or possessed by the union board at the time of its dissolution partly for high school and partly for public school purposes shall be divided as may be agreed upon by such high school and public school boards at a meeting called for that purpose. Division of property on dissolution.

(4) If no division is made within six months after the dissolution the division shall be made forthwith by the council of the local municipality in which the high school is situate. When council to make division. 9 Edw. VII. c. 94, s. 15.

16. Unless all members of the new board have been appointed and a date for the first meeting has been decided upon by the old board, the first meeting of every union board in each year shall be held at the hour of eight o'clock in the evening of the first Wednesday in February. 9 Edw. VII. c. 94, s. 16; 2 Geo. V. c. 76, s. 25. First meeting in each year.

GENERAL PROVISIONS.

17.—(1) The first meeting of every municipal and union board after its organization or formation shall be held in the room, if any, provided for the board in the municipal building, and if no room is provided at the usual place of meeting of the former public school board, and the first meeting in subsequent years shall be held at such place as the board shall determine. Municipal and union board, proceedings at first meeting.

(2) At the first meeting in each year of every new municipal board and union board, and whenever the office of chairman becomes vacant, then at the first meeting of the board after the vacancy occurs, the members shall elect one of their number to be chairman of the board. 9 Edw. VII. c. 94, s. 17 (1, 2). Election of chairman.

Casting
vote.

(3) In case of an equality of votes the elected member who has received the largest number of votes at his election shall have a second or casting vote. 10 Edw. VII. c. 26, s. 26 (2).

Vice-Chair-
man.

(4) The members of the board may also elect one of their number to be vice-chairman and he shall preside in the absence of the chairman.

Temporary
chairman.

(5) If at any meeting neither the chairman or vice-chairman is present the members present may elect a chairman for that meeting.

Secretary-
Treasurer.

(6) At the first meeting after the organization or formation of the board, and so often as a vacancy occurs, the board shall also elect a secretary and a treasurer or a secretary-treasurer who shall hold office during the pleasure of the board.

Who to preside
during election
of chairman.

(7) At any meeting of a board at which a chairman is to be elected the secretary, if present, shall preside until the chairman is elected, and if the secretary is not present the members present may elect one of their number for that purpose.

Acting secre-
tary provided
for.

(8) In the absence of the secretary from any meeting the chairman or other member presiding may appoint any member or person present to act as secretary for that meeting. 9 Edw. VII. c. 94, s. 17 (4-8).

Quorum.

18. The presence of a majority of all the members constituting a board shall be necessary to form a quorum. 9 Edw. VII. c. 94, s. 18.

Chairman may
vote.

19. The chairman or vice-chairman or member presiding may vote with the other members on all questions, and, subject to the provisions hereinbefore contained as to a second or casting vote where there is an equality of votes at an election of chairman, any question on which there is an equality of votes shall be deemed to be negatived except in case of an equality of votes for the election of a secretary or a treasurer, or secretary-treasurer, when the chairman or other presiding officer shall have a second or casting vote. 9 Edw. VII. c. 94, s. 19.

Certain ques-
tions negatived
when there is
an equality of
votes.

Disqualifica-
tion.
Rev. Stat.
c. 266.
Rev. Stat.
c. 268.

20. The provisions of *The Public Schools Act* and of *The High Schools Act* respecting the disqualification of persons from being elected or appointed to, and from sitting and voting as members of public school boards and high school boards respectively, and respecting members resigning or vacating their offices, shall apply to all boards. 9 Edw. VII. c. 94, s. 20.

Special and
advanced
courses of
study in high
schools.

21.—(1) Every board of education having jurisdiction over more than one high school with the approval of the Minister of Education may

(a) make such modifications of the school courses prescribed for the high, industrial, technical and arts schools under its jurisdiction as it deems expedient; 9 Edw. VII. c. 94, s. 21 (1) (a); 1 Geo. V. c. 17, s. 58 (1).

(b) provide for special or advanced instruction in any of such courses; 9 Edw. VII. c. 94, s. 21 (b);

(c) designate such schools, or any of them, English, Commercial, Technical, Industrial, Art or Classical High Schools according to the course or courses of instruction provided therefor. 9 Edw. VII. c. 94, s. 21 (1) (c); 1 Geo. V. c. 17, s. 58 (2).

(2) The accommodations and equipment of the school and the qualifications of the staff shall be subject to the regulations made under the authority of *The Department of Education Act*. 9 Edw. VII. c. 94, s. 21 (2). Application of regulations.
Rev. Stat. c. 265.

22. A member of a board who is a separate school supporter shall not vote or otherwise take part in any of the proceedings of the board exclusively affecting the public schools. 9 Edw. VII. c. 94, s. 22; 2 Geo. V. c. 76, s. 26. Restriction upon member who is separate school supporter.

23. The provisions of *The Public Schools Act* and of *The High Schools Act* and of *The Industrial Education Act* and of all amendments thereto, which are not inconsistent with this Act, shall be read as part of this Act and so far as such provisions are inconsistent with the provisions of this Act they shall not apply to municipal boards or union boards. 9 Edw. VII. c. 94, s. 23; 2 Geo. V. c. 76, s. 27. This Act to be read with certain other Acts.
Rev. Stat. c. 266.
Rev. Stat. c. 268.
Rev. Stat. c. 276.

CHAPTER 270.

An Act respecting Separate Schools.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as *The Separate Schools Act*.
3-4 Geo. V. c. 71, s. 1.

PART I.

PROTESTANT AND COLOURED SEPARATE SCHOOLS.

Conditions on which separate schools may be established. 2. Upon the application in writing of five or more heads of families resident in a township, city, town or village, being Protestants, the municipal council of the township or the board of public school trustees of the city, town or village shall authorize the establishment therein of one or more separate schools for Protestants. 3-4 Geo. V. c. 71, s. 2.

Coloured people. 3. Upon the application in writing of five or more heads of families resident in a township, city, town or village, being coloured people, the municipal council of the township or the board of public school trustees of the city, town or village shall authorize the establishment therein of one or more separate schools for coloured people. 3-4 Geo. V. c. 71, s. 3.

Location. 4. In a township the council shall prescribe the location of the school or schools authorized to be established under the next preceding two sections. 3-4 Geo. V. c. 71, s. 4.

Who may be supporter of school for coloured people. 5. No person shall be a supporter of any separate school for coloured people unless he resides within three miles in a direct line of the site of the school house. 3-4 Geo. V. c. 71, s. 5.

Election of trustees. 6. There shall be three trustees for each separate school and the first meeting for their election shall be held and conducted in the manner provided by section 27. 3-4 Geo. V. c. 71, s. 6.

Commencement and regulations. 7. On the twenty-fifth day of December next following the date of the application mentioned in section 2 and section 3 the separate school shall go into operation, and shall, with respect to the persons for whom it is established, be under the same regulations as the public schools. 3-4 Geo. V. c. 71, s. 7.

8. None but coloured people shall vote at the election of trustees of a separate school established for coloured people; and none but the persons petitioning for the establishment of or sending children to a Protestant separate school shall vote at the election of trustees of such school. 3-4 Geo. V. c. 71, s. 8.

Voters defined.

9. In a city or town the persons who make the application may have a separate school in each ward, or in two or more wards united as they may judge expedient. 3-4 Geo. V. c. 71, s. 9.

Union of wards in cities and towns.

10. No Protestant separate school shall be established in any school section except when the teacher of the public school in such section is a Roman Catholic. 3-4 Geo. V. c. 71, s. 10.

Restriction upon establishment of Protestant school.

11.—(1) In a city, town, village or township public school section in which a separate school exists every Protestant or coloured person, as the case may be, paying rates, whether as owner or tenant, and being a supporter of such school, shall be exempt from the payment of all rates imposed for the support of public schools and public school libraries, or for the purchase of land or the erection of buildings for public school purposes, within the city, town, village or section in which he resides, for the then current year, and every subsequent year thereafter while he continues a supporter of the school.

Exemption from public school rates.

(2) Such exemption shall not extend beyond the period during which such person is a supporter of the school, or to school rates or taxes imposed or to be imposed to pay for school-houses, the erection of which was undertaken or entered into before the establishment of the separate school. 3-4 Geo. V. c. 71, s. 11.

Exemption conditional.

12. Separate schools shall not share in money raised by local municipal assessment for public school purposes. 3-4 Geo. V. c. 71, s. 12.

Not to share.

13. Every separate school shall share in the legislative public school grants in like manner as a public school. 3-4 Geo. V. c. 71, s. 13.

Share of legislative grant.

14.—(1) The trustees of every separate school shall, on or before the 30th day of June and the 31st day of December of each year, transmit to the public school inspector a correct return of the names of all Protestant or coloured persons, as the case may be, who have sent children to or who have subscribed for the support of such separate school during the last preceding six months, the names of the children sent and the amounts subscribed, together with a statement of the average attendance of pupils in the separate schools during such period.

Half-yearly return to inspector.

Inspector
to report
to clerk.

(2) The Inspector shall, upon the receipt of the return, forthwith make a return to the clerk of the municipality in which the separate school is established stating the names of all the persons who being Protestant or coloured persons, as the case may be, contribute, or send children to the separate school.

Exemption
of support-
ers of sepa-
rate schools
from rates.

(3) Except for a rate for building school-houses undertaken before the establishment of the separate school the clerk shall not include in the collector's roll for the general or other school rate, and the board of trustees shall not include in their school rolls any person whose name appears upon the last mentioned return.

Use of
assessor's
roll by
board.

(4) The clerk or other officer of the municipality within which a separate school is established, having possession of the assessor's or collector's roll of the municipality, shall allow any trustee or the authorized collector of the board to make a copy of such roll so far as it relates to their school section. 3-4 Geo. V. c. 71, s. 14.

Application
of ss. 28 to
49, 51 to 54,
and 89.

15. Sections 28 to 49, 51 to 54 and 89 shall apply to the trustees and teachers of such separate schools. 3-4 Geo. V. c. 71, s. 15.

Corporate
name.

16. The trustees of a separate school shall be a body corporate under the name of "The Trustees of the Protestant (or Coloured) Separate School of (as the case may be), in the Township (City, Town or Village, as the case may be), of

Powers.

," and shall have such powers as to imposing, levying and collecting school rates or subscriptions upon and from persons sending children to or subscribing towards the support of the separate school as are provided by section 67. 3-4 Geo. V. c. 71, s. 16.

PART II.

ROMAN CATHOLIC SEPARATE SCHOOLS.

ESTABLISHMENT.

Application
of following
part of Act.

17. This Part shall apply to separate schools for Roman Catholics now or hereafter established. 3-4 Geo. V. c. 71, s. 17.

Interpreta-
tion.

18. In this Part,

"Regulations,"
Rev. Stat.
c. 265.

(a) "Regulations" shall mean regulations made under *The Department of Education Act*;

"Rural
School."

(b) "Rural school" shall mean separate school for Roman Catholics in a township or in territory without municipal organization;

(c) "Secretary" or "Treasurer" shall include a Secre-^{"Secretary-treasurer."}tary-Treasurer;

(d) "Separate school" shall mean separate school for^{"Separate School."}Roman Catholics;

(e) "Urban school" shall mean separate school for^{"Urban School."}Roman Catholics in a city, town or village.
3-4 Geo. V. c. 71, s. 18.

19. Not less than five heads of families, being householders^{Meeting to establish a separate school.} or freeholders resident within any public school section of a township, or within a city, town or village, and being Roman Catholics, may convene a public meeting of persons desiring to establish a separate school therein for the election of trustees. 3-4 Geo. V. c. 71, s. 19.

20. A majority of the persons present, being householders^{Election of trustees.} or freeholders, and Roman Catholics, may at such meeting elect from the duly qualified persons the requisite number of trustees. 3-4 Geo. V. c. 71, s. 20.

21.—(1) Notice in writing that such meeting has been^{Notice of meeting; and to whom given.} held, and of such election, shall be delivered by one of the trustees so elected to the head of the municipality or to the chairman of the board of public school trustees in the township, village, town or city in which the school is about to be established, designating by their names, occupations and residences the persons elected as trustees.

(2) The officer receiving the notice shall endorse thereon^{Notification of result to Department.} the date of its receipt, and shall deliver a copy of the same so endorsed and duly certified by him to such trustee who shall forthwith transmit the same and a copy of the minutes of the meeting and of the notice calling it to the Department of Education.

(3) From and after the delivery of the notice to such officer^{Corporate name of trustees.} the trustees therein named shall be a body corporate under the name, in the case of a city, town or village, of "The Board of Trustees of the Roman Catholic Separate Schools for the City (or town or village) of " and in the case of rural boards of "The Board of Trustees of the Roman Catholic Separate School for School Section Number , in the Township of ."
3-4 Geo. V. c. 71, s. 21.

SCHOOL BOARDS IN TERRITORY WITHOUT MUNICIPAL ORGANIZATION.

22.—(1) In unorganized townships and in any part of^{Meeting for purpose of electing trustees.} Ontario not surveyed into townships any number of heads of families, not less than ten, who are Roman Catholics, may, at a public meeting called for that purpose, elect three of

their number as school trustees, and the trustees so elected shall have all the powers of public school boards in unorganized townships, and shall in all other respects be subject to the provisions of this Act.

Legislative
grants.

(2) On receipt of notice by the Department of Education, signed by the trustees so elected, that a school has been established and suitable accommodation provided for school purposes the Minister of Education may pay to the board out of the appropriation made by this Legislature for public and separate schools such sum for the maintenance of the school as may be approved by the Lieutenant-Governor in Council.

Appoint-
ment of
collector.

(3) The Board may appoint a fit and proper person, who may be one of the trustees, to collect the rates imposed upon the supporters of the school or the sums which the inhabitants or others have subscribed or a rate-bill imposed upon any person, and may pay to such collector at the rate of not less than five nor more than ten per centum on the money collected by him; and every collector shall give such security as may be required by the board.

Powers and
duties of
collectors.

(4) Every collector shall have the same powers in collecting the school rate, rate-bill or subscription and shall be under the same liabilities and obligations and proceed in the same manner as a township collector in collecting rates in a township. 3-4 Geo. V. c. 71, s. 22.

RURAL SEPARATE SCHOOLS.

Meetings of Supporters and Elections.

Trustees'
term of
office.

23. For every rural school there shall be three trustees each of whom, after the first election, shall hold office for three years and until his successor has been elected. 3-4 Geo. V. c. 71, s. 23.

Retirement
by rotation.

24.—(1) The trustees elected at the first meeting shall hold office,

- (a) the person first elected, for two years from the annual school meeting next after his election and until his successor has been elected;
- (b) the person secondly elected, for one year from such annual school meeting and until his successor has been elected;
- (c) the person last elected, until the next ensuing annual school meeting and until his successor has been elected.

Vacancies.

(2) A trustee elected to fill a vacancy shall hold office only for the unexpired term of the person in whose place he has been elected.

(3) A trustee may resign with the consent in writing of the other trustees. ^{Resignations.}

(4) A retiring trustee may be re-elected with his own consent, otherwise he shall be exempted from serving for four years next after leaving office. 3-4 Geo. V. c. 71, s. 24. ^{Re-election.}

25. Any person being a British subject, not less than twenty-one years of age, may be elected as a trustee whether he is or is not a householder or freeholder. 3-4 Geo. V. c. 71, s. 25. ^{Trustees' qualification.}

26. Every householder or freeholder of the full age of twenty-one years, who is a supporter of a rural separate school, shall be entitled to vote at any election for school trustee or on any school question at any annual or special meeting of the supporters of such school. 3-4 Geo. V. c. 71, s. 26. ^{Electorate, qualification of.}

27.—(1) A meeting of the supporters of the school shall be held annually on the last Wednesday of December, or if that day is a holiday on the next day following, commencing at ten o'clock in the forenoon, or if the board by resolution so directs at seven o'clock in the afternoon, for the purpose, among other things, of electing a school trustee or trustees. ^{Annual meeting when held.}

(2) The supporters of the school present at the meeting shall elect one of themselves to preside over its proceedings and shall also appoint a secretary who shall record the proceedings of the meeting and perform such other duties as are required of him by this Part. ^{Organization of meeting.}

(3) The business of the meeting may be conducted in the following order: ^{Order of business.}

- (a) receiving and dealing with the annual report of the trustees;
- (b) receiving and dealing with the annual report of the auditors;
- (c) electing one or more auditors for the current year;
- (d) electing a trustee or trustees to fill any vacancy or vacancies; and
- (e) miscellaneous business.

(4) The chairman shall preside and shall submit all motions to the meeting in the manner desired by the majority, and the chairman shall not be entitled to vote except in the case of an equality of votes, when he shall give the casting vote, and he shall decide all questions of order subject to an appeal to the meeting. ^{Chairman, duties of.}

(5) Where a poll is demanded by two supporters of the school at a meeting for the election of a trustee the chairman shall forthwith grant the same, and the secretary shall thereupon immediately proceed to record as herein directed ^{Granting poll and proceedings in case of a poll.}

the names of all qualified supporters of the school who present themselves within the prescribed time, and shall enter in the poll book, at the head of separate columns, the names of the candidates proposed and seconded, and opposite to such columns shall write the names and residences of the supporters offering to vote, and shall, in the column in which is entered the name of a candidate voted for, set the figure "1" opposite the voter's name.

Entries in
poll-book.

(6) Where a poll is demanded upon a school question by any two supporters the name of each supporter shall be similarly placed opposite separate columns marked "for" or "against."

When voter
is objected
to.

(7) Where an objection is made to the right of a person to vote at an annual or special meeting, either for trustee or upon a school question, the chairman shall require the person whose right to vote is objected to to make the following declaration:

Declaration
by voter.

I, A.B., declare

- (a) That I am an assessed householder or freeholder in School Section No. —;
- (b) That I am of the full age of 21 years;
- (c) That I am a supporter of the Roman Catholic Separate School in said School Section No. —;
- (d) That as such supporter I have the right to vote at this meeting,

whereupon the person making such declaration shall be entitled to vote.

When poll
shall close.

(8) The poll shall not close before noon, but shall close at any time thereafter when a full hour has elapsed without any vote being polled, and shall not be kept open later than four o'clock in the afternoon.

Polling at
afternoon
meetings.

(9) When the meeting is held at seven o'clock in the afternoon the supporters present may decide by resolution that the polling shall take place forthwith or at ten o'clock on the following morning, and if it takes place forthwith the poll shall close when ten minutes have elapsed without any vote being recorded.

Transmitting
minutes to
Department.

(10) A correct copy of the minutes of every meeting, signed by the chairman and secretary, shall be forthwith transmitted by the chairman to the Department of Education.

Meetings to
be called in
default of
first or
annual
meetings.

(11) If from want of proper notice or other cause any meeting for the election of trustees is not held at the proper time any two supporters of the school may call a meeting by giving six days' notice posted up in at least three of the most public places in the locality in which the school is situate; and the meeting thus called shall possess all the powers and perform all the duties of the meeting in the place of which it is called. 3-4 Geo. V. c. 71, s. 27.

Organization of Board.

28. A majority of the trustees shall form a quorum, and ^{Organization and} the board shall be organized by the election of a chairman ^{quorum.} and of a secretary and a treasurer or of a secretary-treasurer. 3-4 Geo. V. c. 71, s. 28.

29. No act or proceeding shall be valid which is not ^{Regularity.} adopted at a regular or special meeting of the board of which notice has been given as required by this Act and at which at least two trustees are present. 3-4 Geo. V. c. 71, s. 29.

Duties of Secretary.

30. It shall be the duty of the secretary to

<sup>Duties of
secretary.</sup>

- (a) keep a full and correct record of the proceedings of every meeting of the board in the minute book provided by the trustees, and see that the minutes, when confirmed, are signed by the chairman or presiding trustee;
- (b) call, at the request in writing of two trustees, a special meeting of the board;
- (c) give notice of all meetings to each of the trustees by notifying him personally or in writing, or by sending a written notice to his residence. 3-4 Geo. V. c. 71, s. 30.

Duties of Treasurer.

31. It shall be the duty of the treasurer to

<sup>Duties of
treasurer.</sup>

- (a) receive all school money collected from the supporters of the school and account for the same;
- (b) disburse all such money in the manner directed by the board;
- (c) produce all papers and money belonging to the corporation whenever called upon to do so by the board, the auditors or other competent authority, and afford to the auditors all the information in his power as to the receipt and expenditure of school money. 3-4 Geo. V. c. 71, s. 31.

Appointment of Auditor by Minister.

32. Where a board neglects or the ratepayers at an annual ^{Appointment of} or special meeting neglect to appoint an auditor, or an ^{auditor by} auditor appointed refuses or is unable to act, the Minister, ^{Minister.} upon the request in writing of any five supporters of the school, may make the appointment. 3-4 Geo. V. c. 71, s. 32.

Union Boards.

What
unions may
be formed.

33.—(1) The majority of the supporters of each of the separate schools situate in two or more public school sections, whether in the same or in adjoining municipalities, at a public meeting duly called by the board of each separate school may form a union separate school of which union the trustees shall give notice within fifteen days to the clerk or clerks of the municipality or municipalities and to the Minister of Education, and every union separate school thus formed shall be deemed one school for all Roman Catholic separate school purposes, and shall every year thereafter be represented by three trustees to be elected by the supporters of the union separate school as provided by section 27.

Corporate
name.

(2) The trustees shall be a body corporate under the name of "The Board of Trustees of the Roman Catholic Union Separate Schools for the United Sections numbers in the ." 3-4 Geo. V. c. 71, s. 33.

School Sites.

Selection
and change
of school
site.

34.—(1) The board shall have power to select a site for a new school-house or to agree upon a change of site for an existing school-house, and shall forthwith call a special meeting of the supporters of the school to consider the site selected; and no site shall be adopted or change of school site made except in the manner hereinafter provided without the consent of the majority of such special meeting.

Arbitration
when trustees
and ratepayers
differ as
to site.

(2) If a majority of the supporters present at such special meeting differ as to the suitability of the site selected each party shall then and there appoint an arbitrator, and the inspector of separate schools for the district in which the school is situate, or, in case of his inability to act, a person appointed by him to act on his behalf shall be the third arbitrator; and such three arbitrators, or a majority of them present at any lawful meeting, shall have authority to make and publish an award upon the matter submitted to them.

Award.

Reconsideration
of award.

(3) With the consent or at the request of the parties to the reference the arbitrators, or a majority of them, shall have authority, within one month from the date of their award, to reconsider such award and within two months thereafter to make and publish a second award, which award, or the previous one if not reconsidered by the arbitrators, shall be binding upon all parties concerned for at least five years from the date thereof. 3-4 Geo. V. c. 71, s. 34.

Separation.

Establishment
of separate
school in a
portion of
rural
section.

35.—(1) Where a separate school has been established in a public school section which includes an urban municipality or a portion of an urban municipality, and a township or a portion of a township, and a majority of the ratepayers

assessed as separate school supporters in such township or portion of a township petition the board of such separate school to notify the Inspector of separate schools that the separate school supporters in such township or portion of a township are desirous of establishing a separate school therein, the Inspector may signify in writing to the board his approval of the establishment of such separate school; and thereupon a meeting may be held for the establishment of a separate school and the election of trustees, and such school may be established and trustees may be elected in the manner provided by this Part.

(2) The Inspector and two other persons, one of whom shall be chosen by the separate school board of such urban municipality and the other by the board of the separate school so established in such township or portion of a township, shall constitute a board of arbitrators who, or a majority of whom, shall determine what proportion of the assets and liabilities of the original separate school board shall belong to, be paid to or be borne by the separate school board of such urban municipality and the board of such rural separate school respectively, and shall adjust all matters consequent upon such separation, and the award of such arbitrators shall be final and binding. Arbitration.

(3) Nothing in this section shall relieve any property from liability for rates levied or to be levied for payment of school debentures issued prior to the establishment of such township separate school. Property liable for debentures. 3-4 Geo. V. c. 71, s. 35.

URBAN BOARDS.

Trustees and Tenure of Office.

36.—(1) For every ward into which a city or town is divided there shall be two trustees each of whom, after the first election, shall continue in office for two years. Trustees in city, etc., divided into wards.

(2) One of the trustees in each ward chosen at the first election, to be determined by lot at the first meeting of the board after their election which determination shall be entered upon the minutes, shall retire from office at the time appointed for the next annual school election and the other shall continue in office one year longer. Retirement by rotation. 3-4 Geo. V. c. 71, s. 36.

37.—(1) In every village there shall be six trustees each of whom, after the first election, shall continue in office for two years. Trustees in village.

(2) Three of the trustees chosen at the first election to be determined by lot at the first meeting of the board after their election, which determination shall be entered upon the minutes, shall retire from office at the time appointed for the next annual school election and the other three shall continue in office one year longer. Retirement by rotation. 3-4 Geo. V. c. 71, s. 37.

Term of
office.

38. A trustee shall continue in office until his successor has been elected. 3-4 Geo. V. c. 71, s. 38.

Election of Trustees.

Nominations.

39.—(1) A meeting of the supporters of every urban school for the nomination of candidates for the office of school trustee shall take place at noon on the last Wednesday in the month of December annually, or if that day is a holiday on the day following, at such place as shall from time to time be fixed by resolution of the board, and in municipalities divided into wards in each ward if the board thinks fit, and the board shall give at least six days' notice of the meeting.

Returning
officer.

(2) The board shall by resolution name the returning officers to preside at the meetings for the nomination of candidates, and in case of the absence of any such officer a chairman chosen by the meeting shall preside.

Proceedings
at nomina-
tions.

(3) If at the meeting only the number of candidates necessary to fill the vacant offices is proposed and seconded the returning officer or chairman, after the lapse of one hour, shall declare such candidates duly elected, and shall notify the secretary of the board; but if two or more candidates are proposed and seconded for any one office, and a poll in respect of such office is demanded by any candidate or school supporter, the returning officer or chairman shall adjourn the proceedings for filling the office until the first Wednesday of the month of January then next, when polls shall be opened at such places and in each ward, where wards exist, as shall be determined by resolution of the board.

Hours of
polling.

(4) The polls shall be opened at ten o'clock in the forenoon and shall continue open until five o'clock in the afternoon and no longer, and a poll may close at any time after eleven o'clock in the forenoon when a full hour has elapsed without any vote having been polled.

Place for
nomination
and election.

(5) The board shall, before the second Wednesday in December in each year, by resolution, fix the places for the nomination meetings and for holding the election in case of a poll, and name the returning officers who shall preside at the respective polling places, and forthwith give public notice thereof.

Duty of
returning
officer after
close of
election.

(6) The returning officer or chairman shall, on the day after the close of the election, return the poll book to the secretary of the board with his solemn declaration thereto annexed that the poll book has been correctly kept and contains a true record of the votes given at the polling place for which he was returning officer.

Duty of
secretary.

(7) The secretary shall add up the number of votes for each candidate for any office as appears from the poll book so

returned, and shall declare elected the candidate or candidates having the highest number of votes.

(8) If two or more candidates have an equal number of votes at the first meeting of the board held after the election the member present who is assessed highest as a supporter of the school on the last revised assessment roll shall give a vote for one or more of such candidates so as to decide the election. Casting vote.

(9) The voting for the election of trustees and for all other urban school purposes shall be by open vote, except as otherwise provided by section 40. Voting to be open.

(10) In a city or town divided into wards the clerk of the municipality shall furnish to the board, within three days after request in writing, the voters' list for each ward annexing thereto a list of the names of all supporters of separate schools for Roman Catholics, and also a list of the names, alphabetically arranged, of all ratepayers and persons entitled to vote in respect of income rated upon the then last revised assessment roll and not being already upon the voters' list. Furnishing voters' list in cities and towns divided into wards.

(11) In towns not divided into wards and in villages the clerk of the municipality shall furnish to the board within three days after request in writing the voters' list for each polling subdivision in such town or village, as provided by the next preceding subsection. Furnishing voters' list in towns not divided into wards, and in villages.

(12) The board shall provide every polling place with such lists and with a poll book. For each polling place.

(13) At every election at which a poll is demanded the returning officer or chairman or the poll clerk shall enter in the poll book at the head of separate columns the names of the candidates proposed and seconded at the nomination, and shall opposite to such columns write the names and residences of the school supporters offering to vote at the election, and shall in each column in which is entered the name of the candidate voted for set the figure "1" opposite the voter's name, and where a poll is demanded upon any school question the name of each voter shall be similarly placed opposite separate columns headed "for" or "against." Entries in poll book.

(14) If an objection is taken to the right of any person to vote the returning officer or chairman shall require the person whose right to vote is objected to to take the declaration mentioned in subsection 7 of section 27. Declaration by voters.

(15) Where a school supporter resides without the municipality in which the school is situate he shall be entitled to vote in that ward or division of the municipality in which the school house is situate which is nearest to his place of residence. 3-4 Geo. V. c. 71, s. 39. Where non-resident is to vote.

Adoption
of ballot.

40.—(1) The board may, by resolution passed between the first day of May and the first day of October in any year, require the election of members of the board to be by ballot and to be held on the days on which the annual municipal elections are held.

Discontinu-
ance.

(2) The board may in like manner discontinue the use of the ballot, and thereafter elections shall be conducted as provided by section 39.

Ballot not
to be dis-
continued or
resumed for
three years
after the
change.

(3) Where the board requires the voting to be by ballot and elections are so held no change shall be made in the mode of voting for a period of three years, and if the mode of voting by ballot is discontinued the provisions of section 39 shall apply for a period of three years at least after such discontinuance. 3-4 Geo. V. c. 71, s. 40.

Municipal
Act to
apply.

Rev. Stat.
c. 192.

41. Where the voting is to be by ballot the provisions of *The Municipal Act* for and relating to holding the annual municipal elections, including those as to re-count, secrecy of proceedings, offences and penalties, shall apply *mutatis mutandis*, except that

Form of
oath.

(a) the oath to be taken by a voter shall be:

You swear that you are the person named (or intended to be named) in the list of voters now shown to you (*showing the list to the voter*);

That you are a ratepayer;

That you are of the full age of twenty-one years;

That you are a Roman Catholic Separate School supporter;

That you have not voted before at this election;

That you have not, directly or indirectly, received any reward or gift and do not expect to receive any for the vote which you tender at this election;

That you have not received anything, nor has anything been promised you directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team or any other service connected with this election;

That you have not directly or indirectly paid or promised anything to any person either to induce him to vote or refrain from voting at this election;

So help you God;

Casting
vote.

(b) when the result of the polling is indecisive by reason of two or more candidates having an equal number of votes all of them shall be notified of the first meeting of the board after the election, and the member of the board present at such meeting who is assessed for the largest sum on the last revised assessment roll shall, before the organization of the board, give a vote for one or more of such candidates so as to decide the election;

Duties of
secretary.

(c) the duties to be performed by the clerk shall be performed by the secretary; and

- (d) the word "secretary" shall be substituted for the words "clerk" or "clerk of the municipality" wherever they occur. 3-4 Geo. V. c. 71, s. 41.

Irregularities not to void Elections.

42. No election shall be invalid by reason of non-compliance with the provisions of this Act as to the taking of the poll or the counting of the votes, or by reason of any mistake in the use of forms, or of any irregularity, if it appears that the election was conducted in accordance with the principles laid down in this Act, and that such non-compliance or mistake or irregularity did not affect the result of the election. 3-4 Geo. V. c. 71, s. 42.

No election to be invalid for want of compliance with principles of Act where result not affected.

Controverted Elections.

43.—(1) A judge of the county or district court, if a complaint respecting the validity or mode of conducting the election of any trustee in any municipality within his county or district is made to him within twenty days after such election, shall receive and investigate such complaint, and shall thereupon within a reasonable time, in a summary manner, hear and determine the same.

Investigation of complaints by judge.

(2) The judge may by order cause the assessment rolls, collector's rolls, poll books and any other records of the election to be brought before him, and may inquire into the facts on affidavit or by oral testimony, and may cause such persons to appear before him as he may deem expedient, and may confirm the election or set it aside, or declare that some other candidate was duly elected.

Powers of judge.

(3) The judge may order a person found by him not to have been duly elected to be removed; and if the judge determines that any other person was duly elected he may order him to be admitted; and if he determines that no other person was duly elected instead of the person removed he shall order a new election to be held and shall report such decision to the secretary of the board.

Order of judge.

(4) The provisions of *The Municipal Act* as to bribery and undue influence shall apply, and, where the election is complained of on those grounds, the inquiry by the judge in reference thereto shall be by oral testimony only. 3-4 Geo. V. c. 71, s. 43.

Bribery and undue influence. Rev. Stat. c. 192.

MEETINGS OF THE BOARD.

44.—(1) At the first meeting in each year the secretary shall preside or, if there is no secretary, the members present shall select one of themselves to preside at the election of chairman, and the member so selected to preside may vote as a member.

Chairman at first meeting.

Casting
vote.

(2) In case of an equality of votes at the election of chairman the member present who is assessed as a separate school supporter for the largest sum on the last revised assessment roll shall have a second or casting vote in addition to his vote as a member.

Subsequent
meetings.

(3) Subsequent meetings of the board shall be held at such times and places as may from time to time be fixed by resolution of the board.

Special
meetings.

(4) Special meetings of the board may be called by the chairman, and shall be called on the request in writing of two members of the board specifying the objects for which the meeting is to be held, which shall also be stated in the notice calling the meeting.

Presiding
officer.

(5) The chairman shall preside or, in his absence, any member appointed to act as chairman by the majority of those present, and the chairman or member so acting may vote with the other members on all questions, and any question on which there is an equality of votes shall be deemed to be negatived.

Equality
of votes.

Quorum.

(6) A majority of the members of the board shall constitute a quorum, but for the purposes of subsection 8 of section 39 a majority of the trustees remaining in office shall constitute a quorum. 3-4 Geo. V. c. 71, s. 44.

DUTIES AND POWERS OF TRUSTEES.

Duties of
board.

45. It shall be the duty of every board and it shall have power to

Appointment
of officers.

(a) appoint a secretary and a treasurer or a secretary-treasurer and one or more collectors, if requisite, of the school fees or rate bills;

(i) The collector or collectors, and secretary and treasurer, or secretary-treasurer may be members of the board, and shall discharge duties, be subject to obligations and penalties, and have powers similar to those of like officers of the corporation of a municipality;

Appoint
auditors.

(b) appoint annually on or before the 1st day of December an auditor or auditors;

Accounts.

(c) lay all the accounts of the board before the auditors, together with the agreements, vouchers, contracts and books in its possession, and afford the auditors all the information in its power as to the receipt and expenditure of school money;

To provide
accommoda-
tion and
teachers.

(d) provide adequate accommodation and legally qualified teachers, according to the provisions of this Act and the Regulations, for all children be-

tween the ages of five and twenty-one years of the supporters of the schools under the control of the board according to the annual enumeration of the assessors for the next preceding year;

- (e) acquire or rent school sites and premises, and build, To provide and maintain school premises. repair, furnish and keep in order the school houses, furniture, fences and all other school property, and keep the wells, closets and premises in proper sanitary condition;
- (f) where the board does not appoint a collector, apply Collection of rates. to the municipal council, on or before the first day of August in each year, for the levying and collection of all sums for the support of their schools, and for any other school purposes authorized by this Act to be collected from the supporters of the separate schools under the control of the board, laying before the council an estimate of such sums;
- (g) give notice in writing, before the 15th day of January in each year, to the Department of Education of the names and post-office addresses of the trustees then in office and of the teachers employed by the board, and give reasonable notice in writing from time to time of any changes therein; Notice of names and addresses.
- (h) give orders on the treasurer of the board for all money to be expended for school purposes; Orders for money expended.
- (i) exempt, in its discretion, from the payment of school rates wholly or in part, any indigent person; and give notice of such exemption, when the school rate is collected by the municipal council, to the clerk of the municipality on or before the first day of August; Exemptions and notice thereof.
- (j) dismiss from a school any pupil who is adjudged by the board and the teacher to be so refractory that his presence in school is injurious to other pupils, and, where practicable, remove such pupil to an industrial school; Dismissal of refractory pupils.
- (k) take possession and have the custody and safe keeping of all school property acquired or given for school purposes; and acquire and hold as a corporation, by any title whatsoever, land, movable property, money or income given to or acquired by the board at any time for school purposes and hold or apply the same according to the terms on which it was acquired or received; and dispose by sale or otherwise of any school site or school property not required in conse- Possession and custody of property.

quence of a change of school site or other cause, and convey the same and apply the proceeds thereof to school purposes or as provided by this Act;

Annual
report.

- (l) prepare and transmit annually, before the 15th day of January, to the Minister of Education, in the prescribed form, a report signed by the chairman containing all information required by the Regulations;

Other
powers and
duties.

- (m) exercise all such other powers and perform all such other duties of public school boards as are applicable to the case of separate schools, except as to matters as to which other provision is made by this Act;

Supervision.

- (n) see that every school under its charge is conducted according to this Act and the regulations, and provide school registers and a visitors' book in the prescribed form;

Travelling
expenses
attending
teachers'
association.

- (o) at its discretion pay the travelling expenses of any member of the board or of any teacher in its employment incurred in attending meetings of the Ontario Educational Association or other like association of teachers in Ontario;

In the case of an urban board,

Determine
number
and kind of
schools, etc.

- (p) determine the number, kind, grade and description of schools to be established and maintained; the teachers to be employed, the terms on which they are to be employed, the amount of their remuneration and the duties which they are to perform;

To appoint
a committee
for each
school.

- (q) appoint from its members annually, or oftener if deemed expedient, and under such regulations as may be deemed proper, a committee of not more than three for the special charge, oversight and management of each school within the city town or village, and see that all the schools under its charge are conducted according to the regulations;

Books and
school
supplies.

- (r) collect, at its discretion, from the parents or guardians of children attending any school under its charge a sum not exceeding twenty cents per month per pupil to defray the cost of text-books, stationery and other contingencies, and see that all the pupils are duly supplied with a uniform series of text-books;

Cadet
corps and
athletics.

- (s) expend such sums as it may deem expedient for establishing and maintaining cadet corps and for

promoting and encouraging gymnastic or other athletic exercises not exceeding \$200 per annum where the annual registered attendance of pupils does not exceed 3,000, and \$50 additional for each additional 1,000, and provide uniforms for classes in military drill;

In the case of a rural board,

- (t) appoint the place of each annual school meeting Time and place of meetings. of the supporters of the school, and the time and place of any special meeting for
 - (i.) filling any vacancy in the board,
 - (ii.) the selection of a new school site,
 - (iii.) the appointment of a school auditor, or
 - (iv.) any other school purpose, and cause notices of the time and place and of the objects of such meetings to be posted in three or more public places of the neighbourhood in which the school is situate at least six days before the time of holding the meeting;
- (u) arrange for the payment of teachers' salaries quar- Payment of salaries.terly and, if necessary, borrow on its promissory note, under the seal of the corporation, at interest not exceeding eight per cent. per annum, the money required for that purpose until the taxes are collected;
- (v) cause to be prepared and read at the annual school Annual report. meeting a report for the year then ending, containing among other things a summary of the proceedings of the board during the year, together with a full and detailed account of the receipts and expenditures of all school money during such year, and signed by the chairman and by one or both of the school auditors;
- (w) ascertain and report to the Minister of Education, Report on blind, deaf and dumb. at least once in each year, the names and ages of all children of school age who would otherwise be required to attend a school under its charge, who are deaf and dumb or blind. 3-4 Geo. V. c. 71, s. 45.

VACANCY IN OFFICE OF TRUSTEE.

46.—(1) If a vacancy in the office of trustee occurs from any cause the remaining trustees shall forthwith take steps Vacancy in office of trustees. to hold a new election to fill the vacancy, and the person thereupon elected shall hold his seat for the residue of the term for which his predecessor held office.

Proceedings
at new
election.

(2) The new election shall be conducted in the same manner and be subject to the same provisions as an annual election, and, in the case of an urban board, the board shall give at least six days' notice of the meeting for the nomination of candidates and, if a poll is demanded, the election shall be held one week from the day of the nomination. 3-4 Geo. V. c. 71, s. 46.

TEACHERS.

Valid agree-
ments with
teacher.

47. Every agreement between a board and a teacher, to be valid and binding, shall be in writing signed by the parties thereto, and sealed with the corporate seal of the board, and may include a stipulation to provide the teacher with board and lodging. 3-4 Geo. V. c. 71, s. 47.

Duties of
teacher.

48. It shall be the duty of every teacher to

Instruction.

(a) teach diligently and faithfully all the branches required to be taught in the school according to the terms of his agreement with the board and according to the provisions of this Act and the Regulations;

Keeping
registers.

(b) keep in the prescribed form the general, entrance, and daily class or other registers of the school, and record therein the admission, promotion, suspension or removal of the pupils;

Order and
discipline.

(c) maintain proper order and discipline in his schools according to the Regulations;

Visitors'
book.

(d) keep a visitors' book, which the board shall provide, and enter therein the visits made to his school, and request every visitor to enter therein any remarks suggested by his visit;

Give
access to
register and
visitors'
book.

(e) afford the trustees and visitors access at all times when desired by them to the registers and visitors' book;

Deliver up
register
and key.

(f) deliver up the school register, visitors' book, school-house key or other school property in his possession on the demand or order of the board;

(i.) In case of his wilful refusal so to do he shall not be deemed a qualified teacher until restitution is made, and shall also forfeit any claim which he may have against the board;

Examinations.

(g) hold during each term a public examination of his pupils, of which he shall give due notice to the trustees, to any school visitors whose place of residence is adjacent to the school-house, and through the pupils to their parents or guardians;

(h) furnish to the Minister of Education, or to the separate school inspector, from the trustees' report or otherwise, any information which it is in his power to give respecting anything connected with the operations of his school or in any wise affecting its interest or character; To furnish information to the Minister and Inspector.

(i) prepare so far as the school registers supply the information such reports of the board as are required by the Regulations. 3-4 Geo. V. c. 71, s. 48. To prepare reports.

49. An authorized text book in actual use may be changed by the teacher for any other authorized text book on the same subject with the written approval of the board and subject to the Regulations. 3-4 Geo. V. c. 71, s. 49. Change of text books.

50. Subject to the provisions of the Act passed in the seventh year of the reign of His late Majesty King Edward the Seventh, chaptered 52, and the amendments thereto, teachers shall be subject to the same examinations and receive their certificates of qualification in the same manner as public school teachers. 3-4 Geo. V. c. 71, s. 50. Certificates to teachers of separate schools.

51. Unless otherwise expressly agreed a teacher shall be entitled to be paid his salary in the proportion which the number of days during which he has taught bears to the whole number of teaching days in the year. 3-4 Geo. V. c. 71, s. 51. Proportion of salary to which teacher is entitled.

52. Every teacher shall be entitled to his salary notwithstanding his absence from duty on account of sickness for a period not exceeding four weeks in any one year of his employment if the sickness is certified to by a physician, or in a case of acute inflammatory condition of the teeth or gums by a licentiate of dental surgery; but the period of four weeks may, in any case of sickness, be allowed and extended at the pleasure of the board without a certificate. 3-4 Geo. V. c. 71, s. 52. Case of sickness or dental treatment.

53. If at the expiration of a teacher's engagement his salary has not been paid in full the salary shall continue to run at the rate mentioned in the agreement until paid if an action to recover it is commenced within three months after the salary is due and payable. 3-4 Geo. V. c. 71, s. 53. Protection of teachers in regard to salary.

54.—(1) All matters of difference between a board and a teacher in regard to salary or other remuneration, whatever may be the amount in dispute, shall be determined in the division court of the division in which the cause of action arose, subject to appeal as provided by this Act. Provision in case of difference between teacher and trustees.

(2) If it appears to the judge on the trial of an action for the recovery of a teacher's salary that there was reasonable ground for the board disputing its liability, and that it was When judge may relieve board from extra liability.

willing and offered to pay to the teacher any sum not so in dispute, the judge may relieve the board from the liability imposed by section 53 in whole or in part. 3-4 Geo. V. c. 71, s. 54.

ASSESSMENTS, BORROWING POWERS AND GRANTS.

Exemption of supporters of separate schools from payment of public school rates on giving certain notice.

55.—(1) Every person paying rates, whether as owner or tenant, who by himself or his agent, on or before the first day of March in any year, gives to the clerk of the municipality notice in writing that he is a Roman Catholic and a supporter of a separate school situate in the municipality or in a municipality contiguous thereto shall be exempt from the payment of all rates imposed for the support of public schools and of public school libraries, or for the purchase of land or the erection of buildings for public school purposes within the city, town, village or section in which he resides, for the then current year, and every subsequent year thereafter while he continues a supporter of a separate school.

No renewal required.

(2) The notice shall not be required to be renewed annually.

Time for giving notice by separate school supporter becoming resident in municipality.

(3) Where an owner or tenant is not, on or before the first day of March in any year, a resident of the municipality or rated upon the assessment roll thereof, but subsequently becomes so resident or liable to be so rated before the time for appealing from the assessment to the court of revision, he shall be entitled to give the notice provided for by this section at any time before the expiration of the time for appealing, and a notice so given shall have the same effect as if given on or before the first day of March of the year in which it is given.

Certificate of notice.

(4) Every clerk of a municipality, upon receiving such notice, shall deliver a certificate to the person giving the notice to the effect that the same has been given and showing the date thereof.

Penalty for wilful false statements in notice.

(5) Any person who fraudulently gives such notice, or wilfully makes any false statement therein, shall not thereby secure any exemption from the rates, and in addition shall incur a penalty of \$40.

As to rates imposed before separate school established.

(6) Nothing in this section shall exempt any person from paying any rate for the support of public schools, or public school libraries, or for the erection of a school house or school houses, imposed before the establishment of the separate school. 3-4 Geo. V. c. 71, s. 55.

Residence of supporters of separate schools.

56. Subject to the other provisions of this Part no person shall be deemed a supporter of a separate school unless he resides within three miles in a direct line of the site of the school house. 3-4 Geo. V. c. 71, s. 56.

57.—(1) A supporter of a separate school whose residence is within three miles of two or more separate schools shall be *ipso facto* a supporter of the school nearest by road to his place of residence; but nothing herein shall affect the liabilities or obligations of a separate school supporter for debts incurred before the 7th day of April, 1896, by the board of the school of which he was a supporter.

Where separate school supporter resides within three miles of two or more schools.

(2) A supporter of a separate school having a debenture debt shall not be bound to become a supporter of another school while any part of such debt remains unpaid. 3-4 Geo. V. c. 71, s. 57.

Saving as to debenture debt.

58. When a supporter of an urban school resides without the municipality in which the school is situate he shall be entitled to vote in the ward or polling subdivision in which the school house nearest to his place of residence is situate if within the distance of three miles in a direct line. 3-4 Geo. V. c. 71, s. 58.

Where person residing out of municipality to vote.

59.—(1) Where a person is entitled to be and is a supporter of a separate school situate in a municipality other than that in which he resides he shall be exempt from the payment of separate school taxes or rates in the municipality in which he resides, but shall be liable to pay and shall pay the school taxes or rates to the board of the school of which he is a supporter, and the same shall be based upon his assessment in the municipality in which he resides.

Liability of non-resident supporter.

(2) The board of the school of which he is a supporter shall on or before the first day of August in each year notify the clerk of the municipality in which such supporter resides that he is a supporter of such school and of the amount of the school taxes or rates payable by him, and the same shall be entered upon the collector's roll of the municipality for that year and collected in like manner as other taxes, and when collected shall be paid over to the board. 3-4 Geo. V. c. 71, s. 59.

How enforceable.

60. Any person who, if resident in a municipality, would be entitled to be a supporter of a separate school therein or in an adjoining municipality may, on giving the notice provided for by *The Assessment Act* that he is the owner of unoccupied land situate in either municipality, require that all such land as is situate either in the municipality wherein the separate school is situate or within the distance of three miles in a direct line of the site of the separate school shall be assessed for the purposes of the separate school, and the assessor shall thereupon enter such person in the assessment roll as a separate school supporter only. 3-4 Geo. V. c. 71, s. 60.

Right of non-residents to be assessed for separate school.

Rev. Stat. c. 195.

Notice of
withdrawal
of support.

61.—(1) A Roman Catholic who desires to withdraw his support from a separate school shall give notice thereof in writing to the clerk of the municipality before the second Wednesday in January in any year otherwise he shall be deemed to be a supporter of the school.

Exception.

(2) A person who has withdrawn his support from a Roman Catholic separate school shall not be exempt from paying rates for the support of separate schools or separate school libraries, or for the erection of a separate school house, imposed before the time of his withdrawing such support. 3-4 Geo. V. c. 71, s. 61.

Index Book
of support-
ers of
separate
schools to
be kept by
clerk.

62.—(1) The clerk of every municipality shall keep entered in an Index Book, Form A, and in alphabetical order, the name of every person who has given to him, or to any former clerk of the municipality, notice in writing that such person is a Roman Catholic and a supporter of a separate school in or contiguous to the municipality, as provided by section 55 or by former Acts respecting separate schools.

Entries.

(2) The clerk shall enter opposite the name, in a column for that purpose, the date on which the notice was received, and in a third column opposite the name any notice by such person of withdrawal from supporting a separate school, as provided by section 61 or by any such other Act, with the date of such withdrawal, or any disallowance of the notice by the court of revision or by a judge of the county or district court, with the date of such disallowance.

Inspection.

(3) The index book shall be open to inspection by any ratepayer.

Filings.

(4) The clerk shall file and carefully preserve all such notices heretofore or hereafter received.

Assessor to
be guided
by Index
Book.

(5) The assessor shall be guided by the entries in the index book in ascertaining who have given the prescribed notices. 3-4 Geo. V. c. 71, s. 62.

Correction
of mistakes
in assessing
separate
school
supporters.

63.—(1) If it appears to the council of any municipality after the final revision of the assessment roll that through mistake or inadvertence a ratepayer has been entered on the roll either as a supporter of separate schools or as a supporter of public schools the council after due inquiry and notice may correct such error by directing the school taxes of such ratepayer to be paid to the proper school board; but it shall not be competent for the council to reverse the decision of the court of revision or of a judge on appeal.

Liability.

(2) In case of such action by a council the ratepayer shall be liable for the same amount of school taxes as if he had in the first instance been properly entered on the roll. 3-4 Geo. V. c. 71, s. 63.

64.—(1) The clerk of every municipality, in making out the collector's roll, shall place columns therein so that under the head of "School Rate" the public school rate may be distinguished from the separate school rate, and that under "Special Rate for School Debts" public school purposes may be distinguished from separate school purposes. Distinguishing the school rates.

(2) The proceeds of any such rate shall be kept distinguished by the collector and accounted for accordingly. Idem.
3-4 Geo. V. c. 71, s. 64.

65.—(1) Where land is assessed against both owner and occupant, or the owner and tenant, the occupant or tenant shall be deemed to be the person primarily liable for the payment of school rates and for determining whether such rates shall be applied to public or separate school purposes, and no agreement between the owner or tenant as to the payment of taxes as between themselves shall alter or affect this provision. Case of owner and occupant.

(2) Where, as between the owner and tenant or occupant the owner is not to pay taxes, if by the default of the tenant or occupant to pay the same, the owner is compelled to pay such school rate he may direct the same to be applied to either public or separate school purposes, and if the public school rate and the separate school rate are not the same he shall only be liable to pay the amount of the rate of the schools to which he directs his money to be paid. When owner may exercise option.
3-4 Geo. V. c. 71, s. 65.

66.—(1) A corporation by notice, Form B, to the clerk of any municipality wherein a separate school exists may require the whole or any part of the land of which such corporation is either the owner and occupant, or not being the owner is the tenant, occupant or actual possessor, and the whole or any proportion of the business assessment or other assessments of such corporation made under *The Assessment Act*, to be entered, rated and assessed for the purposes of such separate school. Right of a corporation to support separate schools.
Rev. Stat. c. 195.

(2) The assessor shall thereupon enter the corporation as a separate school supporter in the assessment roll in respect of the land and business or other assessments designated in the notice, and the proper entries shall be made in the prescribed column for separate school rates, and so much of the land and business or other assessments so designated shall be assessed accordingly for the purposes of the separate school and not for public school purposes, but all other land and the remainder, if any, of the business or other assessments of the corporation shall be separately entered and assessed for public school purposes. Duty of assessor.

(3) Unless all the stock or shares are held by Roman Catholics the share or portion of such land and business or How proportions settled.

other assessments to be so rated and assessed shall not bear a greater proportion to the whole of such assessments than the amount of the stock or shares so held bears to the whole amount of the stock or shares.

Effect of notice.

(4) A notice given in pursuance of a resolution of the directors shall be sufficient and shall continue in force and be acted upon until it is withdrawn, varied or cancelled by a notice subsequently given pursuant to any resolution of the corporation or of its directors.

Filing notice.

(5) Every notice so given shall be kept by the clerk on file in his office and shall at all convenient hours be open to inspection and examination by any person entitled to examine or inspect an assessment roll.

Search for notices.

(6) The assessor shall in each year, before the return of the assessment roll, search for and examine all notices which may be so on file and shall follow and conform thereto and to the provisions of this Act. 3-4 Geo. V. c. 71, s. 66.

Powers of trustees.

67.—(1) The board of a separate school may impose and levy school rates and collect school rates and subscriptions upon and from persons sending children to or subscribing towards the support of such schools, and may appoint collectors for collecting the school rates or subscriptions who shall have all the powers in respect thereof possessed by collectors of taxes in municipalities.

Land on which there are rates uncollected.

(2) If a collector appointed by the board is unable to collect any part of a school rate charged on land liable to assessment, by reason of their being no person resident thereon or no goods and chattels to distrain, the board shall make a return to the clerk of the municipality before the end of the then current year of such land and the uncollected rates thereon.

Return.

(3) The clerk shall make a return to the county, city, town or village treasurer of such land and the arrears of separate school rates thereon.

Collection of rates.

(4) The arrears shall be collected and accounted for by the treasurer in the same manner as the arrears of other taxes.

Deficiency.

(5) The council of the township, village, town or city in which the separate school is situate shall make up the deficiency arising from such uncollected rates out of the general funds of the municipality. 3-4 Geo. V. c. 71, s. 67.

Trustees may copy assessment roll of municipality.

68. The clerk or other officer of a municipality within or adjoining which a separate school is established, having possession of the assessor's or collector's roll of the municipality, shall permit any trustee or the collector of the board to make a copy of the roll in so far as it relates to the persons supporting the separate school. 3-4 Geo. V. c. 71, s. 68.

69. The clerk of a municipality in which there is a separate school shall, once in each year, upon the written request of the board, deliver to it a statement in writing showing the names of all persons appearing upon the assessment roll for the current year who have given the notice required by section 55, with the amount for which each person has been rated upon the assessment roll. 3-4 Geo. V. c. 71, s. 69.

Clerk to give trustees annual statement of supporters of separate schools.

70.—(1) A municipal council, if so requested by the board at or before the meeting of the council in the month of August in any year, shall, through their collectors and other municipal officers, cause to be levied in such year upon the taxable property liable to pay the same all sums of money for rates or taxes imposed thereon in respect of separate schools.

Collection of separate school rates by the municipality.

(2) Any expenses attending the assessment, collection or payment of school rates by the municipal corporation or any of its officers shall be borne by the corporation, and the rates or taxes, as and when collected, shall within a reasonable time thereafter, and not later than the fourteenth day of December in each year, be paid over to the board without any deduction whatever. 3-4 Geo. V. c. 71, s. 70.

Expenses of collection.

71. In a municipality in which the assessment is made under a by-law passed under section 56 of *The Assessment Act* the notices required to be given under subsection 1 of section 55 shall be given on or before the fifteenth day of July, and the notice required to be given under subsection 1 of section 61 shall be given on or before the fourth Wednesday in May, and the request referred to in section 70 shall, if given, be given at the time mentioned therein or prior thereto if required by the council; and in subsection 3 of section 55 the words "first day of March" in the second and ninth lines thereof shall be read "fifteenth day of July." 3-4 Geo. V. c. 71, s. 71.

Dates for giving certain notices of where taxes collected on assessment of preceding year.

Rev. Stat. c. 195.

72.—(1) A separate school board and the council of a municipality, three-fifths of whose members are not separate school supporters, may enter into an agreement for a term of years that for each year of the term and at such times and in such sums as may be agreed upon, in lieu of and as being the amount to be levied and collected in such year for separate school purposes, there shall be paid by the corporation of the municipality to the board a fixed proportion of the total amount levied and collected within the municipality in and for the year for both public and separate school purposes.

Agreements between municipality and separate school trustees as to payment in lieu of separate school rate.

(2) If in and for any year the rate of assessment actually levied for separate school purposes within the municipality is not the same as that actually levied therein for public school purposes the agreement shall not be in force for or apply to such year.

Exception.

Termination.

(3) The agreement may be determined by either of the parties thereto at the end of any calendar year on giving six months' previous notice to the other party. 3-4 Geo. V. c. 71, s. 72.

Right to establish and maintain continuation schools.

73. The separate school board of a municipality or in a school section or union school section shall have and may exercise the same rights, powers and privileges with respect to the establishment and maintenance of continuation schools and shall be subject to the same duties and obligations with respect to such schools as the public school board of the municipality, section or union school section as the case may be. 3-4 Geo. V. c. 71, s. 73.

County rate in aid of schools.

74.—(1) The council of every county shall levy and collect by an equal rate upon the taxable property of the whole county, according to the equalized assessments of the municipalities, a sum at least equal to that part of the legislative grant for public and separate school purposes which is apportioned by the Minister on the basis of the equipment and accommodations of the rural schools of the county, and such sums shall be payable to the boards of the schools receiving such legislative grant in the same proportion as such grant is apportioned.

County to raise equivalent to legislative grant for fifth classes.

(2) The council of every county shall levy and collect by an annual rate upon the taxable property of the whole county, according to the equalized assessments of the municipalities, a sum at least equal to that part of the legislative grant for public and separate school purposes which is apportioned to the schools in the municipality for fifth classes, and such sum shall be payable to the boards of the schools receiving such legislative grant in the same proportion as such grant is apportioned.

Apportionment of school money in united counties.

(3) The council of two or more counties united for municipal purposes may apportion the amount to be levied under this section so that each county forming the union shall be liable only for sums payable in respect of public and separate schools within such county.

Grant for maintenance of fifth forms.

(4) Where a board establishes and maintains a fifth form in any one of its schools and is entitled under the regulations to share in respect of it in the legislative grant for fifth forms the council of the county in which the school is situate shall pay towards the maintenance of the fifth form a sum at least equal to the share of such legislative grant which the board receives in respect of it, and may contribute for its maintenance such further sum as it may deem expedient.

How apportioned between counties.

(5) In the case of a separate school having in attendance children from two or more counties the council of each county shall pay a proportion of the whole sum required to be paid

under subsection 4 which bears the same ratio to the whole sum as the number of children resident in it attending the school, as shown by the school register, bears to the whole number of children in attendance. 3-4 Geo. V. c. 71, s. 74.

75.—(1) The board of a separate school may pass by-laws for borrowing money for school purposes and for making mortgages and other instruments for the security and payment thereof, or of money payable or to be paid for school sites, school buildings or additions thereto, or the repairs thereof, upon the school-house property and premises or any other real or personal property vested in the board, or upon the separate school rates, and any ratepayer who was a separate school supporter at the time when the loan was effected on the security of the property or rates shall, while resident within the section or municipality within which the separate school is situate, continue to be liable for the rate to be levied for the repayment of the money so secured.

Borrowing
powers of
trustees of
separate
schools.

(2) The principal money may be made payable in annual or other instalments, with or without interest, and the board, in addition to all other rates or money which it may levy in any one year, may levy and collect in each year such further sum as may be requisite for paying all principal money and interest falling due in such year, and the same shall be levied and collected in each year in the same manner and from the like persons and property by, from, upon or out of which other separate school rates may be levied and collected.

Terms of
payment.

(3) Such mortgages and other instruments may in the discretion of the board be made in the form of debentures; and the debentures shall be a charge on the same property and the rates as in the case of mortgages thereof made by the board.

Debentures.

(4) The debt to be so incurred and the debentures to be issued therefor may be made payable in thirty years at the furthest, and in equal annual instalments of principal and interest, or in any other manner authorized by *The Municipal Act* in the case of debentures issued under that Act.

Maturity.

Rev. Stat.
c. 192.

(5) Where the debt is not payable by instalments the board shall levy in each year during its currency in addition to the amount required to pay the interest falling due in such year a sum such that the aggregate amount so levied during the currency of the debt, with the estimated interest on the investments thereof, will be sufficient to discharge the debt when it becomes payable, which shall be invested in the manner provided by *The Municipal Act* as to the investment of sinking funds.

Sinking
fund.

Rev. Stat.
c. 192.

(6) Every such by-law, before being acted upon, shall be published at least for three successive weeks in some public newspaper published weekly or oftener in the city, town or

Publication
of by-law.

county in which the separate school is situate; and if no application to quash the by-law is made for three months after the publication thereof the by-law shall be void notwithstanding any want of substance or form in the by-law or in the time or manner of passing the same.

Amounts.

(7) The debentures issued under the by-law may be for such amounts as the board may deem expedient. 3-4 Geo. V. c. 71, s. 75.

Right of separate schools to a share of municipal grant.

76.—(1) Every separate school shall be entitled to share in all grants, investments and allotments for public school purposes now or hereafter made by any municipal authority according to the average number of pupils attending the school during the next preceding twelve months, or during the number of months which may have elapsed from the establishment of a new separate school, as compared with the whole average number of pupils attending school in the same city, town, village or township.

Apportionment.

(2) Where the grant is made by a county council the same shall be apportioned in like manner as the legislative grant.

But not to any share of local assessment for public schools.

(3) A separate school shall not be entitled to share in any school money arising or accruing from local assessment for public school purposes within the city, town, village or township in which the school is situate. 3-4 Geo. V. c. 71, s. 76.

MISCELLANEOUS.

Visitors of separate schools.

77. The Minister of Education, the judges of all courts, members of the assembly, heads of the municipal corporations in their respective localities, the inspectors of public schools and clergymen of the Roman Catholic Church shall be visitors of separate schools. 3-4 Geo. V. c. 71, s. 77.

Inspection of schools.

78. The schools with their registers shall be subject to such inspection as may be directed by the Minister of Education and shall be subject also to the Regulations. 3-4 Geo. V. c. 71, s. 78.

Model schools for teachers of separate schools.

79. The Minister of Education may, subject to the Regulations, constitute a separate school in any county or district a Model School for the training of teachers for separate schools. 3-4 Geo. V. c. 71, s. 79.

Disagreement between trustees, inspectors, etc.

80. In the event of a disagreement between a board and the inspector of public schools or any municipal authority or of a complaint against the election of a rural school trustee or against the establishment of a school in close proximity to an existing school, or any other proceeding of a rural school meeting, signed by five supporters of the school concerned or of such existing school, the matter in difference shall be deter-

mined by the Minister of Education, subject to an appeal to the Lieutenant Governor in Council, whose decision shall be final. 3-4 Geo. V. c. 71, s. 80.

SUPERANNUATION.

81. Every teacher and inspector whose name was, on the 30th day of March, 1886, entered as having contributed to the fund for superannuated teachers may continue to contribute to such fund, in such manner as may be prescribed by the Regulations, at least \$4 annually, but no payment of arrears which accrued before the first day of January, 1885, shall be allowed. 3-4 Geo. V. c. 71, s. 81. Superannuation fund.

82. On the death of any such teacher or inspector the wife, husband, or legal representative of such teacher or inspector shall be entitled to receive the amount paid into the superannuation fund by such teacher or inspector, with interest at the rate of seven per cent. per annum. 3-4 Geo. V. c. 71, s. 82. Repayment to wife, etc., of deceased teacher.

83.—(1) Every such teacher and inspector who while engaged in his profession has contributed to the fund for superannuated teachers as provided by this Act shall on reaching the age of sixty years, if he retires from the profession, receive an allowance at the rate of \$6 per annum for every year of service in Ontario upon furnishing evidence of good moral character, age and length of service. Allowance upon retirement at sixty years of age.

(2) A teacher or inspector who has reached the age of sixty years shall not be disqualified for superannuation by reason of his having retired from active service before reaching that age if he has served for a period of thirty years. 3-4 Geo. V. c. 71, s. 83. Or after 30 years' service.

84. Every such teacher and inspector under sixty years of age who has so contributed and who is disabled from practising his profession shall be entitled to a like annual allowance upon furnishing evidence as to length of service, moral character and disability. 3-4 Geo. V. c. 71, s. 84. Retirement through disability.

85.—(1) Every superannuated teacher and inspector who holds a first or second class provincial certificate, or a first-class county board certificate, or who has been a principal of a high school or collegiate institute, shall be entitled to receive a further allowance at the rate of \$1 per annum for every year of service while he held such certificate, or while he acted as principal of a high school or collegiate institute. Extra allowance to certain teachers.

(2) The retiring allowance shall cease at the close of the year in which the death of the recipient takes place. 3-4 Geo. V. c. 71, s. 85. When allowance to cease.

Teacher
resuming
profession.

86. If a superannuated teacher or inspector, with the consent of the Minister, resumes the profession of a teacher or inspector the payment of his allowance shall be suspended during the time he is so engaged; and if he is again placed on the superannuation list an allowance for the additional time of service shall be made on compliance with this Act and the Regulations. 3-4 Geo. V. c. 71, s. 86.

Again
retiring.

Forfeiture
of claim.

87. A teacher or inspector who having resumed his profession wilfully draws or continues to draw upon the superannuation fund shall forfeit all claim to the fund and his name shall be struck off the superannuation list. 3-4 Geo. V. c. 71, s. 87.

Repayment
to contri-
butors.

88. A teacher or inspector who retires from the profession or who desires to remove his name from the list of contributors to the superannuation fund shall be entitled to receive back one-half of any sum contributed by him to the fund. 3-4 Geo. V. c. 71, s. 88.

Teachers
not avail-
ing them-
selves of
Act.

89. Where a teacher or inspector does not avail himself of the provisions of section 81 or of section 88 sections 82 to 87 shall apply so far as relates to all sums already paid by them into the superannuation fund. 3-4 Geo. V. c. 71, s. 89.

Grant by
board to
superannu-
ation fund.

90.—(1) Subject to the Regulations the separate school board of a city or town may make such annual grant as may be deemed proper for the establishment or in aid of a superannuation fund for the teachers and officers of the board of such city or town, and make rules prescribing the terms and conditions upon and under which they shall be entitled to participate therein, and may make it a term of the engagement of a teacher or officer that he shall contribute to the fund such annual sum as may be prescribed by such rules.

Power of
investment.

(2) A separate school board may invest any money received through legacy, gift or otherwise in its hands for the purposes of a superannuation fund and as to such money shall have and may exercise the powers conferred upon trustees by *The Trustee Act*. 3-4 Geo. V. c. 71, s. 90.

Rev. Stat.
c. 121.

SCHOOL YEAR AND HOLIDAYS.

Terms.

91.—(1) The school year shall consist of two terms, the first of which shall begin on the 1st day of September and shall end on the 22nd day of December and the second of which shall begin on the 3rd day of January and end on the 29th day of June.

Holidays.

(2) Every Saturday, every public holiday, the week following Easter Day and every day proclaimed a holiday by the authorities of the municipality in which the teacher is engaged shall be a holiday.

(3) With the approval of the inspector the board of a rural school may substitute holidays in some other part of the year for part of the time herein allowed for Easter and Midsummer vacations to suit the convenience of pupils and teachers, but the number of holidays prescribed by subsections 1 and 2 shall be allowed in each year. 3-4 Geo. V. c. 71, s. 91.

PENALTIES AND PROHIBITIONS.

92. If a teacher negligently or wilfully permits an unauthorized book to be used as a text book by the pupils of his school the Minister, on the report of the inspector, may suspend such teacher, and the board may also deduct from his salary a sum equal to so much of the legislative grant as has been withheld on account of the use of such book or any less sum at its discretion. 3-4 Geo. V. c. 71, s. 92.

Use of unauthorized books.

93. Any person who wilfully makes a false declaration of his right to vote at any school meeting or at an election of school trustees shall incur a penalty of not less than \$5 nor more than \$10. 3-4 Geo. V. c. 71, s. 93.

False declaration as to right to vote.

94. A trustee of a separate school shall not be eligible for appointment as separate school inspector or teacher, nor shall the teacher of a high, public or separate school hold the office of trustee of a separate school, nor shall an inspector be a teacher or trustee of any separate school while he holds the office of inspector. 3-4 Geo. V. c. 71, s. 94.

Disqualification for certain offices.

95. If a trustee is convicted of any indictable offence, or becomes insane, or without being authorized by resolution entered upon the minutes absents himself from the meetings of the board for three consecutive months, or ceases to reside within the municipality in case of an urban school, or within three miles of the school in the case of a rural school, he shall *ipso facto* vacate his seat and the remaining trustee or trustees shall declare his seat vacant. 3-4 Geo. V. c. 71, s. 95.

Seat vacated by conviction for crime, etc.

96.—(1) A trustee shall not enter into any contract, agreement, engagement or promise, either in his own name or in the name of another, and either alone or jointly with another in which he has any pecuniary interest, profit or promised or expected benefit, with the board of which he is a member, or have any pecuniary claim upon or receive compensation from the board for any work, engagement, employment or duty on behalf of the board; and every such contract, agreement, engagement or promise shall be null and void, and a trustee violating the provisions of this section shall *ipso facto* vacate his seat.

Seat vacated by interest in contract with board.

(2) On the complaint of two supporters of the school or of the remaining trustee or trustees the Judge of the County or District court shall, on proof of the facts, declare the seat

When seat may be declared vacant.

vacant, and the remaining trustee or trustees shall forthwith order a new election.

Exception.

(3) Nothing in this section shall prevent a trustee receiving payment for services as a collector or prevent the board from allowing the secretary or treasurer such compensation for his services as may be approved at the annual meeting of the supporters of the school and duly entered in the minutes.

Newspaper proprietors inserting official advertisements not disqualified.

(4) No person shall be disqualified from being a member of a board or from sitting and voting on such board by reason only of his being proprietor of or otherwise interested in a newspaper or other periodical publication subscribed for by the board or in which an advertisement is inserted in the regular course of business if such advertisement or subscription is paid for at the usual rate, but such member shall not be entitled to vote where his own account is in question. 3-4 Geo. V. c. 71, s. 96.

Penalty for disturbing a school or school meeting.

97. Any person who wilfully interrupts or disquiets the proceedings of a school meeting or a separate school by rude or indecent behaviour, or by making a noise either within the place where such meeting is held or such school is kept or so near thereto as to interfere with the proceedings of the meeting or order of exercises of the school, shall for each offence incur a penalty not exceeding \$20. 3-4 Geo. V. c. 71, s. 97.

Refusing to serve.

Disqualified person acting.

98. A trustee who refuses to serve after being duly elected shall incur a penalty of \$5, and a person elected as a trustee who as such attends any meeting of the board after becoming disqualified shall incur a penalty of \$20 for every meeting so attended. 3-4 Geo. V. c. 71, s. 98.

Penalty for refusal to perform duties.

99. Every person elected as trustee who has not refused to accept the office and who at any time refuses or neglects to perform its duties shall incur a penalty not exceeding \$20. 3-4 Geo. V. c. 71, s. 99.

Penalty for failing to transmit minutes.

100. A chairman who neglects to transmit to the inspector a minute of the proceedings of any annual or other rural school meeting over which he has presided within ten days after the holding of such meeting shall incur a penalty not exceeding \$5. 3-4 Geo. V. c. 71, s. 100.

Liability for neglect to take security.

101. If a board refuses or neglects to take proper security from the treasurer or other person to whom it entrusts school money, and any school money is forfeited or lost to the board in consequence of such refusal or neglect, every member of the board shall be personally liable for such money and the same may be recovered by the board or any supporter interested therein in any court of competent jurisdiction, but no member shall be liable if he proves that he made reasonable

Exception.

efforts to procure the taking of such security. 3-4 Geo. V. c. 71, s. 101.

102. A secretary or treasurer and a person having been a secretary or treasurer and a trustee or other person who has in his possession any book, paper, chattel or money which came into his possession as such secretary, treasurer, trustee or otherwise shall not wrongfully withhold, or neglect, or refuse to deliver up, or account for and pay over the same or any part thereof to the person, and in the manner directed by the board or by other competent authority. 3-4 Geo. V. c. 71, s. 102.

Secretary-treasurer, or trustee refusing to deliver up books and money.

103.—(1) Upon application to a Judge of the County or District court by the board or by any two supporters of the school, supported by affidavit, showing such wrongful withholding or refusal the Judge may summon such secretary, treasurer, trustee, or person to appear before him at a time and place appointed by him.

Summons for appearance.

(2) Any bailiff of a division court, upon being requested so to do, shall serve the summons or a true copy thereof on the person complained against personally or by leaving the same with a grown-up person at his residence.

Service of summons.

(3) At the time and place so appointed the Judge, being satisfied that service has been made, shall, in a summary manner, and whether the person complained against does or does not appear, hear the complaint; and if he is of opinion that it is well founded the Judge shall order the person complained against to deliver up, account for and pay over such book, paper, chattel or money by a day to be named by the Judge in the order, together with such reasonable costs incurred in making the application as the Judge may allow.

Order to account, etc.

(4) In the event of non-compliance with the order the Judge may order the person complained against to be forthwith arrested by the sheriff of any county or district in which he may be found, and to be committed to the common gaol of the county or district in which he resides, there to remain without bail until the Judge is satisfied that he has delivered up, accounted for or paid over the book, paper, chattel or money in the manner directed by the board or other competent authority.

Effect of non-compliance with judge's order.

(5) Upon proof of his having so done the Judge shall make an order for his discharge and he shall be discharged accordingly.

Discharge upon compliance.

(6) Upon proof that such person has done all in his power to deliver up, account for or pay over such book, paper, chattel or money as directed the judge may order his discharge on such terms or conditions as he may deem just.

Discharge upon terms.

Other
remedy not
affected.

(7) Such proceedings shall not impair or affect any other remedy which the board or any other person may have against the person complained against or against any other person. 3-4 Geo. V. c. 71, s. 103.

Penalty on
trustees
refusing
information,
etc., to
auditors.

104. It shall be the duty of the board and of the secretary and the treasurer to furnish the auditors with any papers or information in its or his power which may be required of it or him relating to the school accounts, and any member of the board or a secretary or treasurer who neglects or refuses so to do shall incur a penalty not exceeding \$20. 3-4 Geo. V. c. 71, s. 104.

Penalty for
delaying
yearly
report.

105. If a board neglects to transmit its annual report to the Minister in accordance with clause (1) of section 45 each of them shall for every week during which the default continues and until such report is transmitted incur a penalty of \$5. 3-4 Geo. V. c. 71, s. 105.

Penalty for
false school
reports and
registers.

106. If a trustee knowingly signs a false report, or if a teacher keeps a false school register or makes a false return, he shall for every offence incur a penalty not exceeding \$20. 3-4 Geo. V. c. 71, s. 106.

Personal
responsibility
for money
lost.

107.—(1) The trustees of every separate school shall be personally responsible for the amount of any school money forfeited by or lost to the board in consequence of their neglect of duty.

Collection
and appli-
cation.

(2) The amount so forfeited or lost shall when collected be applied in the manner provided for by this Act. 3-4 Geo. V. c. 71, s. 107.

Recovery and
application of
penalties.

Rev. Stat.
c. 90.

108. Except as otherwise provided the penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*, and shall be applied to such separate school purposes as the Minister may direct. 3-4 Geo. V. c. 71, s. 108.

FORM A.

FORM OF INDEX BOOK.

(Section 62.)

Names.	Notices claiming exemption. When received.	Remarks.
Allen, John	3rd February, 19 ..	Notice of withdrawal received 1st January, 19 .. Disallowed by Court of Revision, 1st June, 19 ..
Ardagh, Joseph	3rd February, 19 ..	
Ashbridge, Robert..	3rd February, 19 ..	

3-4 Geo. V. c. 71, Form A.

FORM B.

(Section 66.)

NOTICE BY CORPORATION AS TO APPLICATION OF SCHOOL TAX.

To the Clerk of (*describing the municipality*),

Take notice that (*here insert the name of the corporation so as to sufficiently and reasonably designate it*) pursuant to a resolution in that behalf of the directors requires that hereafter and until this notice is either withdrawn or varied, the whole or so much of the assessment for land and business or other assessments of the corporation within (*giving the name of the municipality*) as is hereinafter designated shall be entered, rated, and assessed for separate school purposes, namely, one-fifth (*or as the case may be*) of the land and business or other assessments.

Given on behalf of the said company this (*here insert date*).

R. S., Secretary of the company.

3-4 Geo. V. c. 71, Form B.

CHAPTER 271.

An Act respecting Industrial Schools.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

- Short title.** 1. This Act may be cited as *The Industrial Schools Act*. 10 Edw. VII. c. 105, s. 1.
- Interpretation.** 2. In this Act,
- “Board of Public School Trustees.” “Board of public school trustees” shall include a board of education.
- “Industrial School.” “Industrial school” shall mean a school in which industrial training is provided, and in which children are lodged, clothed and fed, as well as taught, and which has been certified by the Minister under section 3 of this Act.
- “Industrial School Board.” “Industrial school board” shall mean and include a board of education, a board of public school trustees, a board of separate school trustees, a board of management or any other body having control of an industrial school.
- “Inspector.” “Inspector” shall mean Superintendent of Neglected and Dependent Children or such other officer as may be designated by the Lieutenant-Governor in Council.
- “Judge.” “Judge” shall include a Judge of the Supreme Court, a Judge of a County or District Court, a police magistrate and a justice of the peace.
- “Minister.” “Minister” shall mean the Provincial Secretary of Ontario or other member of the Executive Council charged by the Lieutenant-Governor in Council with the administration of this Act.
- “Municipality.” “Municipality” shall mean and include a city, county or a town separated from the county for municipal purposes, and a town having a population of 5,000 or over in a provisional judicial district.
- “Philanthropic Society.” “Philanthropic society” shall mean a society approved by the Lieutenant-Governor in Council for the purposes of this Act. 10 Edw. VII. c. 105, s. 2.

3.—(1) The board of public school trustees or the board of separate school trustees of any city or town may acquire by purchase, lease or otherwise such real and personal property, and may erect, equip and maintain such buildings as they may deem necessary or proper for the purposes of an industrial school, and may establish, control and manage an industrial school. Establishment by school board.

(2) The board shall cause notice of the establishment of the school to be given to the Inspector who shall report thereon to the Minister. Notice to Minister.

(3) If the Inspector reports in favour of such action the Minister may in writing under his hand certify that the school is a fit and proper one for the reception of children to be sent there, and the school shall thereupon be deemed a certified industrial school for the purposes of this Act. Approval by Minister.
10 Edw. VII. c. 105, s. 3.

4.—(1) Any board of school trustees may delegate the powers, rights and privileges conferred upon it by this Act respecting the establishment, control and management of an industrial school to any philanthropic society. Delegation of powers to philanthropic society.

(2) Thereafter this Act shall apply to the philanthropic society as fully as to the board. Application of Act to society.

(3) The chairman and secretary of the board of public school trustees of the city or town in which the industrial school is situated or under whose control it is placed and the chief public school inspector of the city or town shall be members of the board of management of the society when acting under powers delegated by the board of public school trustees. Representation of school boards on board of management.

(4) The chairman and secretary of the separate school board shall be members of the board of management of a society acting under powers delegated by the separate school board. Representation of separate school board.
10 Edw. VII. c. 105, s. 4.

5.—(1) A philanthropic society to which the powers of a school board have been delegated, in addition to any powers which it may possess as to raising money on the security of its property, may borrow money on debentures to an amount not exceeding two-thirds of the value of the real and personal property owned by such society, and such debentures shall be a charge upon the real and personal property of the society. Societies may borrow on debentures.

(2) A certificate of the number and amount of such debentures as they are issued under the seal of the society and signature of the president or secretary shall be filed in the proper registry office or land titles office, and shall be open to inspection on payment of 10 cents. Registration of certificate of debentures.
10 Edw. VII. c. 105, s. 5.

Aid to industrial schools.

6. A school board authorized to establish an industrial school and the council of any municipality may grant aid to any industrial school in the same manner as to other schools notwithstanding that such school does not lie within the municipality wherein such school board or council has jurisdiction. 10 Edw. VII. c. 105, s. 6.

Corporation guaranteeing debentures.

7.—(1) The council of the city or town may by by-law guarantee any debentures issued for industrial school purposes to the amount authorized by section 5 of this Act.

Liability for debenture debt.

(2) Any debenture debt guaranteed by a municipal corporation under this section which has been incurred by the board of public school trustees or a philanthropic society acting under powers derived from such board shall be a liability of the supporters of public schools, and any debt incurred by the board of separate school trustees or by a philanthropic society acting under powers derived from a separate school board shall be a liability of the supporters of separate schools. 10 Edw. VII. c. 105, s. 7.

Religious corporations empowered to grant or lease lands to industrial schools.

8. Any religious corporation may set apart and grant or lease for a nominal consideration or otherwise for industrial school purposes any land which it has a general power to dispose of for religious, charitable or educational purposes, without being deemed guilty of a breach of trust. 10 Edw. VII. c. 105, s. 8.

Providing teachers and general superintendent.

9.—(1) A school board which has delegated its power to establish an industrial school shall provide the teachers necessary for the school, and the general superintendent shall when practicable be selected from the teachers so appointed.

Or paying per capita allowance instead of furnishing teachers.

(2) In lieu of providing such teachers the school board may annually pay a *per capita* allowance to the industrial school board for each child taught, but such allowance shall not be less than the average cost *per capita* for each child attending the industrial school in the then next preceding year.

Power as to teachers.

(3) Where the school board adopts such plan of payment the power of hiring and discharging teachers shall vest in the industrial school board. 10 Edw. VII. c. 105, s. 9.

Certain children under sixteen may be brought before Judge.

10.—(1) Any person may bring before a Judge any child apparently under the age of sixteen years who

- (a) is found begging or receiving alms or being in any street or public place for the purpose of begging or receiving alms;
- (b) is found wandering and has not any home or settled place of abode or proper guardianship;

(c) is found destitute either being an orphan or having a surviving parent who is undergoing imprisonment;

(d) is an habitual truant and whose parent or teacher represents that he is unable to control the child;

(e) is by reason of the neglect, drunkenness or other vices of his parents suffered to grow up without salutary parental control and education, or in circumstances exposing him to lead an idle and dissolute life;

(f) has been accused or found guilty of petty crime.

(2) No formal information shall be requisite, but the Judge shall have the child brought before him and shall in the presence of the child take evidence in writing under oath of the facts charged, and shall make reasonable inquiry into the truth thereof. Magistrate to inquire into truth of facts charged.

(3) The Judge shall hear all cases coming before him under this section in private. Hearing in private.

(4) If the Judge is satisfied on inquiry that it is expedient to deal with the child under this Act instead of committing him to a gaol or reformatory, he shall make his order in writing that the child be sent to an industrial school. 10 Edw. VII. c. 105, s. 10. Magistrate may order child to school.

11. Where under the authority of any statute of Ontario or of any other statute or law of Canada any person is convicted of an offence punishable by imprisonment, and the Judge before whom he is convicted is of opinion that such offender is under the age of sixteen years the Judge may make the order provided for in the next preceding section. 10 Edw. VII. c. 105, s. 11. Child under 16 may be sent to industrial school.

12. The Inspector may by his order in writing direct that a child who has been placed in a foster home under the provisions of *The Children's Protection Act of Ontario* shall be sent to an industrial school. 10 Edw. VII. c. 105, s. 12. Inspector may send child to school. Rev. Stat. c. 231.

13. The Judge or Inspector shall endeavour to ascertain the religious persuasion to which the child belongs, and shall as far as practicable send a Roman Catholic child to a Roman Catholic industrial school and a child of any other religious persuasion to a school established by and with the sanction of a board of public school trustees. 10 Edw. VII. c. 105, s. 13. Religious persuasion of offenders.

14. Every child sent to an industrial school shall where practicable be taken to the school by an agent or member of a Children's Aid Society, and the actual expense incurred in so doing shall be borne by the municipality liable for maintenance. 10 Edw. VII. c. 105, s. 14. Transportation of children to school.

Particulars
to be set
out in order.

15. The Judge or Inspector shall in his order designate the school to which the child is to be sent and the person in whose custody he is to be conveyed to the school, and shall where practicable state the name, age and parentage of the child, his religious persuasion, and the municipality liable for his maintenance. 10 Edw. VII. c. 105, s. 15.

Depositions
to be deliv-
ered to
person exe-
cuting
warrant.

16. The Judge or Inspector shall deliver to the person having the execution of the order the depositions taken by him or a certified copy thereof which depositions or copy shall be delivered to the general superintendent or officer receiving the child into the industrial school. 10 Edw. VII. c. 105, s. 16.

Parole in
three years.

17.—(1) Every child sent to an industrial school shall within three years from the date of the order be given over to the custody of his or her parents or be apprenticed or placed out in a foster home as the industrial school board may deem advisable.

Rights of a
Board on
return of
child to
school.

(2) After a child has been given over to the custody of his or her parents or has been apprenticed or placed out in a foster home the general superintendent of the school, with the approval of the Inspector, may if he deems it necessary in the interest of such child cause the child to be returned to the school and thereafter the Industrial School Board shall have the right to collect the amount for maintenance directed to be paid when such child was committed.

Supervision
after leav-
ing school.

(3) An industrial school board shall exercise and maintain supervision over every child committed to its guardianship after leaving the school, and shall keep such records and provide for such visits as may be prescribed by the Inspector. 10 Edw. VII. c. 105, s. 17.

Persons
committed
to remain
under guar-
dianship
until 21
years old.

18. Subject to the provisions of section 19 every child committed to an industrial school shall remain under the guardianship of the industrial school board, and it shall possess and exercise all the rights and powers of a parent in regard to such child until he shall attain the age of 21 years. 10 Edw. VII. c. 105, s. 18.

Transfer
of child
from one
school to
another.

19. The Minister may at any time order that a child be transferred from one industrial school to another or may order that a child be discharged from an industrial school either absolutely or on such conditions as he may think fit, and the child shall be transferred or discharged accordingly. 10 Edw. VII. c. 105, s. 19.

Visits by
clergymen.

20. A clergyman of the religious persuasion to which a child appears to belong may visit the child at the school for the purpose of instructing him in religion on such days and at such times as may be fixed by regulations of the Minister. 10 Edw. VII. c. 105, s. 20.

21. An Industrial School Board may permit a child sent to the industrial school to live at the dwelling of any trustworthy and respectable person; but the control of such board over the child shall not thereby be abated or diminished, nor the liability of any municipality for the maintenance of such child increased. 10 Edw. VII. c. 105, s. 21.

Children may reside with respectable persons.

22. If the child leaves the person with whom he is placed without the permission of the Industrial School Board or refuses to return to the school he shall be deemed to have escaped from the school. 10 Edw. VII. c. 105, s. 22.

What shall be deemed escape from school.

23.—(1) If a child sent to an industrial school escapes from the school or neglects to attend thereat he may, at any time before the expiration of his period of detention, be apprehended without warrant, and may be brought back to the school there to be detained during the period equal to so much of his period of detention as remained unexpired at the time of his escape.

Apprehension on escape or absence.

(2) Every person who aids or abets any child in such escape shall incur a penalty not exceeding \$25 to be recoverable under *The Ontario Summary Convictions Act* before a police magistrate or two justices of the peace. 10 Edw. VII. c. 105, s. 23.

Aiding or abetting escape.

Rev. Stat. c. 90

24. Where the maintenance of a child is not otherwise fully provided for the municipality in which the child resided for one year last preceding his admission to the school shall pay the sum of \$1.25 per week towards the expenses of maintenance. 10 Edw. VII. c. 105, s. 24.

Municipality liable for maintenance.

25. The Treasurer of Ontario shall pay towards the maintenance of every child sent to an industrial school from a provisional judicial district for whose maintenance a city or town is not liable the sum of 43 cents for each day's actual stay of the child in the school. 10 Edw. VII. c. 105, s. 25.

Children from unorganized territory.

26.—(1) On the complaint of an Industrial School Board or of a municipal corporation liable to contribute to the maintenance of a child in an industrial school the Judge of the Division Court of the division in which the parent, step-parent or guardian of the child resides may summon the parent, step-parent or guardian before him and may examine into his ability to maintain the child; and the Judge may if he thinks fit order the parent, step-parent or guardian to pay to the Industrial School Board or municipality such weekly sum, not exceeding \$1.25 per week, as to the Judge seems reasonable during the whole or any part of the time during which the child is liable to be detained in the school; and such order shall for all purposes be a judgment of the Division Court.

Power to order parent, etc., to maintain a child.

Varying the
order for
mainten-
ance.

(2) On the application either of the parent, step-parent or guardian, or of the Industrial School Board or municipality, after fourteen days' notice of the application has been given to the other party, the Judge making such order or any other Judge holding the Division Court may from time to time vary the same. 10 Edw. VII. c. 105, s. 26.

Rules of
manage-
ment.

27. Every Industrial School Board may make rules for the management and discipline of the industrial school established by it, but such rules shall not take effect until approved in writing by the Inspector. 10 Edw. VII. c. 105, s. 27.

Provincial
grant in aid.

28.—(1) The sum of twenty-five cents for each day's actual stay of a pupil in an industrial school complying with the requirements shall be paid quarterly by the Treasurer of Ontario to the Industrial School Board out of any money appropriated by this Legislature for that purpose.

How
amount to be
calculated.

(2) In calculating the amount of aid to be so given the day of departure of any pupil from such institution shall be included.

How grant
to be
payable.

(3) The money payable under this section shall be paid by the Treasurer upon the report of the Inspector approved by the Minister. 10 Edw. VII. c. 105, s. 28.

Penalty
in case of
false return.

29. Any person who knowingly and wilfully makes, or is a party to, or procures to be made, directly or indirectly, any false statement in a return required by or under the authority of this Act shall incur a penalty of \$500 to be payable to the Treasurer of Ontario, and to be recoverable only at the suit of the Crown. 10 Edw. VII. c. 105, s. 29.

Inspection
of schools
receiving
public aid.

30. The Inspector shall have the right to inspect every institution receiving aid under this Act, and shall from time to time report on the general management and efficiency of the work carried on. 10 Edw. VII. c. 105, s. 30.

Of public
industrial
school.

31.—(1) When required by the public school board the inspector of public schools for the city or town shall visit and inspect any industrial school established by such Board or by a philanthropic society to which it has delegated its powers for the purpose of reporting upon the efficiency of its teachers and the progress of the pupils in any of the branches of the school work coming within those prescribed by the Regulations of the Department of Education for public schools.

Of Roman
Catholic
industrial
school.

(2) An inspector of separate schools upon the request of a separate school board may visit, inspect and report in like manner upon a Roman Catholic Industrial School established by such Board or by a philanthropic society to which it has delegated its powers.

(3) Save as aforesaid the inspector of public schools and the inspector of separate schools shall not be called upon to perform any duty and shall not possess any powers with respect to Industrial Schools. 10 Edw. VII. c. 105, s. 31.

Limit of powers and duties of inspectors.

CHAPTER 272.

An Act respecting Special Classes.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Special Classes Act*.

Establishment of special classes for backward or defective children.

2. The board of education or the board of public school trustees or the board of separate school trustees of any city may establish and conduct in connection with any school building or in a separate school building provided for that purpose special classes for children

(a) who are backward or abnormally slow in learning;

(b) who from physical or mental causes require special training and education;

and subject to the regulations made by the Minister of Education may cause a register of such children to be made and may provide teachers and suitable appliances, books and furniture for such classes. 1 Geo. V. c. 78, s. 1.

How admission obtained.

3. Children may be admitted to such special classes upon the application of their parents or guardians and upon the report of the Inspector and the principal of any school at which they are in attendance. 1 Geo. V. c. 78, s. 2.

Medical inspection.

4. The board may provide for medical inspection by a duly qualified medical practitioner of the children attending special classes, and upon the recommendation of the medical inspector may provide for medical treatment being given to any child who appears to the medical inspector to require the same and whose parents are unable from poverty or other cause to provide adequately for the treatment of the child. 1 Geo. V. c. 78, s. 3.

Duty of School Boards as to health and treatment of child.

5. It shall be the duty of a board which has established special classes under this Act to provide for the proper supervision of the health and treatment of every child attending a special class, and for this purpose to direct the medical inspector or such officer as the board may appoint to visit the children in their homes and to consult and advise with the parents of the children as to their treatment in their homes and the conditions which will best enable the children

to attain a normal degree of intelligence and education. 1 Geo. V. c. 78, s. 4.

6. Subject to the approval of the Minister the board may provide a special course of study for children attending the special classes established under this Act. 1 Geo. V. c. 78, s. 5.

7. The Minister of Education may from time to time make Regulations for the administration and enforcement of this Act and for the establishment, organization, government and examination and inspection of special classes and for prescribing the accommodation and equipment of school rooms or buildings and the arrangement of school premises for special classes. 1 Geo. V. c. 78, s. 6.

8. Subject to the Regulations the Minister shall annually apportion among the special classes all sums of money appropriated as a special grant therefor. 1 Geo. V. c. 78, s. 7.

CHAPTER 273.

An Act respecting the Schools for the Instruction
of the Deaf and Blind.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enact as follows:

Short title.

1. This Act may be cited as *The Schools for the Deaf and Blind Act*.

The Institution at Belleville to be for the public use of the Province, etc.
Name.

2. The Institution at Belleville, for the education and instruction of the deaf and dumb, with the land, buildings and appurtenances, and any land hereafter purchased or acquired for the same, and any buildings hereafter erected thereon, shall be for the public use of the Province, and shall be known and designated as "The Ontario School for the Deaf." R.S.O. 1897, c. 319, s. 1; 3-4 Geo. V. c. 18, s. 46, *part*.

The Institution at Brantford to be for the public use of the Province, etc.
Name.

3. The Institution at Brantford, for the education and instruction of the blind, with all the land, buildings and appurtenances, and any land hereafter purchased or acquired for the same, and any buildings hereafter erected thereon, shall be for the public use of the Province, and shall be known and designated as "The Ontario School for the Blind." R.S.O. 1897, c. 319, s. 2; 3-4 Geo. V. c. 18, s. 46, *part*.

Objects of the institutions.

4. Such Institutions shall be for the purpose of educating and of imparting instruction in manual arts to such deaf persons and such blind persons as are born of parents, or are wards of persons, *bona fide* residents of Ontario. R.S.O. 1897, c. 319, s. 3.

Appointment of officers.

5. The Lieutenant-Governor in Council may appoint to each of such Institutions, to hold office during pleasure, a principal who shall be the chief executive officer of the same, a bursar, a physician, a matron, and such other officers, instructors and servants as he may deem necessary; and may also fix the salary of every such officer and servant. R.S.O. 1897, c. 319, s. 4.

Salaries.

Minister of Education and his powers.

6.—(1) The Institutions shall be under the control and direction of the Minister of Education, and he shall have power, and it shall be his duty, to make such regulations as he may deem expedient for their government, discipline and

management, prescribing and regulating the duties of the principals, bursars, physicians, matrons, and other officers, instructors and servants employed in or about such institutions; for the education and instruction of the pupils; and, subject to the provisions of this Act, prescribing the terms and conditions upon which pupils shall be admitted to, and remain in, the institutions, and the period for which they shall be allowed to remain therein, and for their discharge therefrom. R.S.O. 1897, c. 319, s. 6; 5 Edw. VII. c. 38, s. 1 and 2, *redrafted*.

(2) No such regulations shall have any effect until approved by the Lieutenant-Governor in Council. R.S.O. 1897, c. 319, s. 6. Approval by Lieutenant-Governor.

7.—(1) No person shall be admitted to either institution except for the purposes of education and instruction, or who is over the age of twenty-one years, except with the consent in writing of the Minister of Education, and upon the report of the principal of such institution to the Minister of the particulars and special circumstances which, in his opinion, justify such admission. Admittance.

(2) Where a person is admitted under the next preceding subsection the Minister shall determine how the cost of his maintenance and support shall be borne. Maintenance, cost of.

(3) The principal of the institution shall report half yearly to the Minister whether in his opinion the terms upon which such person is maintained and supported should be continued, giving the particulars and special circumstances, upon which his opinion is founded. Report to be made half-yearly.

(4) The Minister may at any time direct the discharge of any such person or may vary the terms upon which he is being supported and maintained in the institution. 6 Edw. VII. c. 57, s. 1. Discharge, or variation in terms.

CHAPTER 274.

An Act respecting Truancy and Compulsory School Attendance.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as *The Truancy Act*. 9 Edw. VII. c. 92, s. 1.

Interpretation. 2. In this Act—

“Inspector.” (a) “Inspector” shall mean an inspector of public or separate schools;

“Principal.” (b) “Principal” shall mean the head teacher of a public, separate or private school;

“Regulations.” (c) “Regulations” shall mean regulations made under the authority of *The Department of Education Act*;

Rev. Stat.
c. 265.

“School.” (d) “School” shall mean a public or a separate school or a private school at which instruction is given regularly in reading, spelling, writing, grammar, geography and arithmetic. 9 Edw. VII. c. 92, s. 2.

Children from 8 to 14 to attend school. 3. Every child between eight and fourteen years of age shall attend school for the full term during which the school of the section or municipality in which he resides is open each year, unless excused for the reasons hereinafter mentioned. 9 Edw. VII. c. 92, s. 3.

Duty of persons with whom children reside.

4. A person who has received into his house another person's child under the age of fourteen who is resident with him or is in his care or legal custody shall be subject to the same duty with respect to the instruction of such child during such residence as a parent, and shall be liable to be proceeded against as in the case of a parent if he fails to cause such child to be instructed as required by this Act; but the duty of the parent under this Act shall not be thereby affected or diminished. 9 Edw. VII. c. 92, s. 4.

Exemptions from penalties.

5.—(1) A parent, guardian or other person shall not be liable to any penalty imposed by this Act in respect of a child if—

- (a) the child is under efficient instruction at home or elsewhere;
- (b) the child is unable to attend school by reason of sickness or other unavoidable cause;
- (c) there is no public or separate school which the child has the right to attend within two miles, measured by the nearest highway from such child's residence, if he is under ten years of age, or within three miles if he is over that age;
- (d) there is not sufficient accommodation in the school which the child has the right to attend;
- (e) the child has been excused, as hereinafter provided, by a justice of the peace or by the principal of the school which the child is entitled to attend; or
- (f) the child has passed the entrance examination for high schools prescribed by the Regulations, or has completed the course prescribed for the fourth form of the public schools or a course which gives him an equivalent standing. 9 Edw. VII. c. 92, s. 5.

(2) The fact that the child is blind or deaf and dumb shall not be deemed an unavoidable cause within the meaning of clause (b) of this section if the child is a fit subject for admission to The Ontario School for the Deaf or The Ontario School for the Blind. 3-4 Geo. V. c. 70, s. 36.

6.—(1) No child under the age of fourteen years who has not a valid excuse under this Act shall be employed by any person during school hours while the public school of the section or municipality in which the child resides is in session, and any person who employs a child in contravention of this section shall incur a penalty not exceeding \$20.

When blind or deaf and dumb child within Act.

Employment of children during school hours prohibited.

Penalty.

(2) Where in the opinion of a justice of the peace or of the principal of the school attended by any child the services of such child are required in husbandry or in urgent and necessary household duties, or for the necessary maintenance of such child or of some person dependent upon him, such justice or principal may, by certificate setting forth the reasons therefor, relieve such child from attending school for any period not exceeding six weeks during each public school term. 9 Edw. VII. c. 92, s. 6.

When Justice of the Peace or principal may relieve child from attendance.

7.—(1) The police commissioners and, where there are no police commissioners, the municipal council of every city, town and village shall appoint, control and pay one or more truant officers for the enforcement of this Act, and notice of such appointment shall be forthwith given to the school boards of the municipality.

Appointment and regulation of truant officers.

Truant officer
to have powers
of peace officer.

(2) A truant officer shall, for the purposes of this Act, be vested with the powers of a peace officer and shall have authority to enter factories, workshops, stores, shops and all other places where children may be employed or congregated, and shall perform such services as may be necessary for the enforcement of this Act. 9 Edw. VII. c. 92, s. 7 (1-2).

Appointments
in townships.

(3) The council of a county or township may annually appoint one or more truant officers who shall have the same powers and perform the same duties as a truant officer in a city, town or village. 9 Edw. VII. c. 92, s. 7 (3); 3-4 Geo. V. c. 70, s. 37.

Township clerk
to notify
boards.

(4) The clerk of the council shall notify the secretary of the board in each school section in the municipality of every appointment of a truant officer with the name and post office address of each officer appointed. 9 Edw. VII. c. 92, s. 7 (4).

When school
board of
section may
appoint.

(5) If both councils neglect to appoint a truant officer before the 1st day of February in any year the board of a school section may appoint a truant officer for the section. 9 Edw. VII. c. 92, s. 7 (5); 3-4 Geo. V. c. 70, s. 38.

In unorganiz-
ed territory.

(6) The board of school trustees of a school section in territory without municipal organization may appoint a truant officer for the section. 1 Geo. V. c. 17, s. 59.

Rules.

(7) The body making the appointment may make rules not inconsistent with the provisions of this Act or the Regulations for the direction of the truant officer.

Notice of
appointment.

(8) Notice of every appointment made under this section shall be given to the inspector within whose inspectorate the truant officer has jurisdiction.

Monthly and
annual reports.

(9) Every truant officer shall report monthly to the body appointing him and annually to the Minister of Education according to the forms prescribed by the Regulations.

Acting under
inspector.

(10) Where the appointing body so directs a truant officer shall perform his duties under the direction of the inspector. 9 Edw. VII. c. 92, s. 7 (6-9).

Truant officers
to investigate
cases of
truancy.

8. Every truant officer shall examine into all cases of truancy within his knowledge or when requested to do so by the inspector or by a school trustee, teacher, other truant officer or ratepayer, and shall warn the truants and their parents or guardians in writing of the consequences of truancy; and shall also notify the parent, guardian or other person having the charge or control of a child between the ages of eight and fourteen years not attending school as required by this Act to cause the child to attend some school forthwith. 9 Edw. VII. c. 92, s. 8.

Conviction
and penalty
for violation
of Act.

9.—(1) A parent, guardian or other person having the charge or control of any child between the ages of eight and

fourteen years who neglects or refuses to cause such child to attend some school, unless such child is excused from attendance as provided by this Act, shall incur a penalty of not less than \$5 nor more than \$20.

(2) The court may instead of imposing a penalty require a person convicted of an offence under this section to give a bond in the penal sum of \$100, with one or more sureties to be approved by the court, conditioned that the person convicted shall after the expiration of five days cause the child to attend some school as required by this Act. 9 Edw. VII. c. 92, s. 9.

Requiring security instead of penalty.

10. Every truant officer shall institute or cause to be instituted proceedings against a parent, guardian or other person having the charge or control of a child, or against any other person violating any of the provisions of this Act. 9 Edw. VII. c. 92, s. 10.

Truant officers to institute proceedings.

11.—(1) The teacher or the principal of every public and separate school shall once in each month of the school year report to the truant officer of the municipality or section in which the school is situate the names, ages and residences of all pupils on the school register who have not attended school as required by this Act, together with such other information as the truant officer may require for enforcing the provisions of this Act.

Teachers to report to truant officer.

(2) The teacher or principal, as the case may be, shall also forthwith report to the truant officer every case of expulsion. 9 Edw. VII. c. 92, s. 11.

Reports.

12. Where any of the provisions of this Act are violated by a corporation proceedings may be had against every officer or agent of the corporation who is a party to such violation, and such officer or agent shall be subject to the same penalties as any other person similarly offending. 9 Edw. VII. c. 92, s. 12.

Violations of Act by corporations.

13. Every person and officer charged with the duty of enforcing any provision of this Act who neglects to perform the duty imposed upon him shall incur a penalty not exceeding \$10 for each offence. 9 Edw. VII. c. 92, s. 13.

Penalty for neglecting to enforce the Act.

14. The penalties imposed by this Act shall be recoverable under *The Ontario Summary Convictions Act*. 9 Edw. VII. c. 92, s. 14.

Recovery of penalties. Rev. Stat. c. 90.

15. A conviction or order made in any matter arising under this Act shall not be removed either at the instance of the Crown or of any private person into the Supreme Court 9 Edw. VII. c. 92, s. 15.

Convictions not to be removed.

Onus of
proof of
age of child.

16. Where a person is charged with an offence under this Act in respect to a child who is alleged to be within the ages of eight and fourteen years and the child appears to the court to be within such ages the child shall, for the purposes of this Act, be deemed to be within such ages unless the contrary is proved. 9 Edw. VII. c. 92, s. 16.

Children
of separate
school
supporters.

17.—(1) Nothing herein shall be held to require the child of a Roman Catholic who is a separate school supporter to attend a public school or to require the child of a public school supporter to attend a Roman Catholic separate school.

Absence on
holy days
excused.

(2) No penalty shall be imposed in respect to the absence of a child from school on a day regarded as a holy day by the Church or religious denomination to which such child belongs. 9 Edw. VII. c. 92, s. 17.

CHAPTER 275.

An Act respecting the Compulsory School Attendance of Adolescents.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Adolescent School Attendance Act*. 2 Geo. V. c. 77, s. 1. Short title.

2. In this Act,—

(a) “Adolescent” shall mean a young person of either sex who has passed the high school entrance examination or completed the course of the fourth form of the public schools or an equivalent course and is under the age of seventeen years, or who is not less than fourteen nor more than seventeen years of age; Interpretation.
“Adolescent.”

(b) “Board” shall mean and include the board of high school trustees or board of education of a city, town or village, an urban board of Public School Trustees and an urban board of Separate School Trustees. 2 Geo. V. c. 77, s. 2. “Board.”

3.—(1) A board may pass by-laws requiring the attendance of adolescents in a city, town or village under the jurisdiction of the board at day or evening classes to be established by the board or at some other classes or school in the municipality. Powers of Board respecting classes for adolescents.

(2) Every such by-law shall be passed at a special meeting of the board called for the purpose of considering the same after public notice of the meeting and of the object thereof has been given once a week for four weeks in some newspaper published in the city, town or village, or if there is no such newspaper, in a newspaper published in an adjoining municipality or in the county or district town. 2 Geo. V. c. 77, s. 3. Special meeting for consideration of by-laws.

4. The by-laws may provide for

(a) the compulsory attendance at classes to be established by the board or at some other school or classes in the municipality of every adolescent who is not otherwise receiving a suitable education or who is not exempt by the by-law; Provisions of by-laws. Compulsory attendance.

Establishment of classes.

(b) the establishment of day and evening classes for adolescents;

Age of attendance.

(c) fixing the age, not exceeding seventeen years, for such compulsory attendance;

Courses of study,—providing instructors.

(d) prescribing courses of study approved by the Minister of Education and providing instructors and teachers for such classes with qualifications approved by the Minister of Education;

Distinguishing as to sex or occupation.

(e) special classes for either sex or for both and for those engaged in particular trades or occupations designated in the by-law;

Fixing times of compulsory attendance.

(f) fixing the seasons and the number of hours in each day and in each week for the compulsory attendance required under the by-law. 2 Geo. V. c. 77, s. 4.

When by-law to be prepared by advisory industrial committee. Rev. Stat. c. 276.

5.—(1) In a city, town or village in which schools have been established under section 4 of *The Industrial Education Act* the terms of the by-laws, so far as they relate to adolescents engaged in trades or in industrial or manufacturing occupations, shall be settled by the advisory industrial committee.

When to be prepared by advisory commercial committee.

(2) In a city, town or village in which there is a commercial high school or in which there is a commercial department in a high school or continuation school the terms of the by-laws, so far as they relate to adolescents engaged as clerks in offices or in any other department of commercial business, shall be settled by the advisory commercial committee. 2 Geo. V. c. 77, s. 5.

When by-law to come into force.

6. Every by-law passed under this Act shall come into force at the expiration of thirty days from the passing thereof unless a petition is filed as hereinafter provided praying that it may be submitted to the electors. 2 Geo. V. c. 77, s. 6.

Petition for submission of by-law to electors.

7.—(1) If within thirty days after the passing of a by-law under this Act a petition signed by at least ten per cent. of the municipal electors in the municipality is filed with the clerk of the municipality praying that such by-law shall be submitted, the council shall, at a date not later than the next general municipal election in the municipality, submit the same in the manner provided by *The Municipal Act*, to a vote of the electors of the municipality qualified to vote at municipal elections.

Rev. Stat. c. 192

By-law if assented to to come into force.

(2) If the by-law receives the assent of the majority of the electors voting thereon the clerk shall certify the result to the chairman of the board and the by-law shall thereupon come into force; but if the by-law does not receive such assent

it shall not come into force and no by-law for the same or a like purpose shall be passed by the board for at least one year thereafter. 2 Geo. V. c. 77, s. 7.

8. In a city, town or village for which there is an advisory industrial committee constituted under *The Industrial Education Act* that committee shall have the control and management of any classes established under a by-law prepared by it as provided in section 5, and in a city, town or village for which there is an advisory commercial committee constituted under *The Industrial Education Act* that committee shall have the control and management of the classes established under a by-law prepared by it as provided by section 5. 2 Geo. V. c. 77, s. 8.

9. No adolescent shall be compellable to attend classes established under this Act if he

- (a) is declared exempt by by-law under this Act; or
- (b) has been granted special exemption by the board or committee having the control or management of the classes which he should otherwise attend; or
- (c) is unable through sickness, infirmity or physical defect to attend such classes; or,
- (d) has obtained a junior high school diploma or the equivalent thereof. 2 Geo. V. c. 77, s. 9.

10. Where a by-law passed under this Act is in force every person who has in his employment any adolescent to whom the by-law applies shall give notice to the board of such employment at such times as the by-law may require, and shall state in such notice the hours during which the adolescent is employed by him. 2 Geo. V. c. 77, s. 10.

11.—(1) Every person who

- (a) fails to give the notice required by section 10; or,
- (b) knowingly employs an adolescent at any time during which his attendance is by the by-law required at classes of instruction; or,
- (c) employs such adolescent for such a number of hours as with the number of hours during which the adolescent is required to attend such classes will exceed in any day or week the number of hours during which such adolescent may be lawfully so employed; or,
- (d) being a parent or guardian of an adolescent has by wilful default or neglect suffered or permitted the employment of the adolescent in violation of any

by-law passed under this Act, or suffers or permits such adolescent through want of proper care and control to violate any by-law requiring his attendance at such classes

Penalty. shall incur a penalty not exceeding \$5 for the first offence and in the case of a second or subsequent offence in relation to the same adolescent or another adolescent shall incur a penalty not exceeding \$25.

Recovery of. (2) The penalties imposed by this section shall be recoverable under *The Ontario Summary Convictions Act*. 2 Geo. V. c. 77, s. 11.

Powers and duties of truant officers. **12.** For the purpose of enforcing any by-law passed under this Act the truant officer appointed under *The Truancy Act* shall have and may exercise the powers and shall perform the duties conferred and imposed upon him by that Act. 2 Geo. V. c. 77, s. 12.

Roman Catholics. **13.—(1)** No by-law passed under this Act shall require the attendance of an adolescent who is a Roman Catholic at any of the classes of a public school.

Absence on holy days. excused. (2) No penalty shall be imposed in respect to the absence of an adolescent from any school or from any classes established under this Act on a day regarded as a holy day by the church or religious denomination to which such adolescent belongs. 2 Geo. V. c. 77, s. 13.

CHAPTER 276.

An Act respecting Education for Industrial Purposes.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Industrial Education Act*. Short title.
3-4 Geo. V. c. 73, s. 1.

2. In this Act,
- (a) "Board" shall mean and include a board of education, and a board of high school trustees;
 - (b) "Minister" shall mean Minister of Education;
 - (c) "Regulations" shall mean regulations made under the authority of *The Department of Education Act* or of this Act. 3-4 Geo. V. c. 73, s. 2.
- Interpre-
tion,
"Board."
"Minister."
"Regula-
tions."
Rev. Stat.
c. 265.

3. This Act shall apply to all art, industrial and technical schools and courses, heretofore established under Acts of this Legislature respecting high schools and technical schools and in operation at the time of the passing of this Act; to the art, industrial or technical schools and courses established under this Act; and to agricultural and commercial high schools and high school courses heretofore or hereafter established under the Regulations. 3-4 Geo. V. c. 73, s. 3.

Application
of Act.

SCHOOLS AND COURSES.

4. With the approval of the Minister a high school board or a board of education of any city, town or village, may provide for duly admitted pupils in the following classes of schools:

Classes of
schools
which may
be estab-
lished.

- (a) general industrial schools and courses for instruction in such subjects as may form a basal preparation for the trades, including work-shop practice, with correlated drawing, English, practical mathematics and science, and the essential subjects of a good general education;
 - (b) special industrial schools and courses for instruction in the theoretical and practical work of particular trades carried on in the city, town or village,
- General
Industrial
Schools and
Courses.
Special
Industrial
Schools and
Courses.

and, when deemed desirable, in the essential subjects of a good general education;

Technical
High
Schools and
High School
Courses.

- (c) technical high schools and high school courses for instruction for minor directive positions in industrial establishments;

Co-operative
Industrial
Courses.

- (d) part-time co-operative industrial courses in which and under such conditions as may be agreed upon between the employer and the advisory industrial committee, apprentices, whether articleed or not, employed in the work-shops may receive in the day schools instruction bearing upon their trades; and pupils attending the day schools may receive practical instruction in the workshops;

Art
Schools and
Courses.

- (e) schools and courses for instruction in the fine and applied arts;

Evening
Schools for
workmen
and work-
women.

- (f) industrial, technical and art evening schools in which workmen and workwomen employed during the day may receive theoretical and practical instruction in their trades or callings. 3-4 Geo. V. c. 73, s. 4.

Admission
of pupils
to schools
and
courses.

5.—(1) Pupils duly admitted under the Regulations to a high school may be admitted to a technical high school or high school course.

Industrial
schools.

(2) Subject to the Regulations and on the report of the principal, approved by the advisory industrial committee, pupils of at least the standing of the fourth form of the public and separate schools may be admitted to a general or special industrial school or part-time co-operative industrial course or a school or course for instruction in the fine and applied arts.

Workmen
and work-
women
employed
by day.

(3) Workmen or workwomen employed during the day may be admitted to an industrial, technical or art evening school or course subject to the Regulations and on the report of the principal, approved by the advisory industrial committee, that they are competent to receive instruction therein. 3-4 Geo. V. c. 73, s. 5.

ADVISORY COMMITTEES.

Advisory
Industrial
Committee,
how com-
posed.

6—(1) Every technical school established before the 21st March, 1911, and then in operation, and the schools mentioned in section 4, whether heretofore or hereafter established, shall be under the management and control of a committee composed of eight or twelve persons as the board may direct, the members of which shall be appointed by the board as follows:

- (a) when the number of persons is eight,

- (i) four members of the board including one representative of the board of public school trustees and one representative of the board of separate school trustees, if any;
- (ii) two persons, not members of the board, who are engaged as employees in the manufacturing or other industries carried on in the local municipality or in the county or district in which the school is situate; and
- (iii) two other persons, not members of the board, who are employers of labour or directors of companies employing labour in manufacturing or other industries carried on in the local municipality or in the county or district in which the school is situate:

(b) when the number of persons is twelve,

- (i) six members of the board including one representative of the board of public school trustees and one representative of the board of separate school trustees, if any,
- (ii) three persons, not members of the board, who are engaged as employees in the manufacturing or other industries carried on in the local municipality or in the county or district in which the school is situate, and
- (iii) three other persons, not members of the board, who are employers of labour or directors of companies employing labour in manufacturing or other industries carried on in the local municipality or in the county or district in which the school is situate.

(2) The committee shall be known as the Advisory Industrial Committee. 3-4 Geo. V. c. 73, s. 6. Name of committee.

7.—(1) Where in accordance with the Regulations an agricultural or a commercial high school has been or is hereafter established or an agricultural or a commercial course is established in a high school or a continuation school, such school or course shall be under the management and control of a committee composed of eight persons the members of which shall be appointed by the board as follows:— Advisory, Agricultural and Commercial Committee, how composed.

- (a) four members of the board including one representative of the board of public school trustees and one representative of the board of separate school trustees, if any;
- (b) four persons who are resident ratepayers of the local municipality or of the county or district in

which the school is situate or the course is established who are not members of the board and who,

(i) in the case of an agricultural high school or commercial course are actually engaged in agricultural pursuits, or

(ii) in the case of a commercial high school or commercial course are actually engaged in commercial pursuits.

Name of committee.

(2) The committee shall be known as the Advisory Agricultural Committee or the Advisory Commercial Committee, as the case may be. 3-4 Geo. V. c. 73, s. 7.

Appointment of members of Committee.

8.—(1) The first members of an advisory committee shall be appointed at the meeting of the board at which a school or course is established for which an advisory committee is to be appointed under this Act.

Tenure of office of members who are members of Board.

(2) The members appointed under subclause (i) of clause (a) of subsection 1 of section 6 and subclause (i) of clause (b) of section 6 and clause (a) of subsection 1 of section 7 shall hold office until the expiry of the period for which they were elected or appointed to the board.

Tenure of office of other members.

(3) The term for which the other members of the committee shall respectively hold office shall be fixed by the board but shall not exceed three years.

Filling vacancies caused by retirement.

(4) The board, at its first meeting in each year after the establishment of the school or course, shall appoint a sufficient number of members from each class to fill the vacancies caused by the expiry of the term of office of members appointed from that class.

Filling other vacancies.

(5) Every vacancy upon a committee occasioned by death, removal or other cause shall be filled by the appointment by the Board of some person from the class in which the vacancy occurs, and every person so appointed shall hold office for the unexpired portion of the term of the member whose seat has become vacant.

Quorum.

(6) The presence of a majority of the members constituting a committee shall be a quorum at any meeting, and a vote of the majority of such quorum shall be necessary to bind a committee:

Chairman voting.

(7) On every question other than the election of a chairman the chairman or presiding officer of the committee may vote with the other members of the committee, and any question on which there is an equality of votes shall be deemed to be negatived.

Present members to remain in office.

(8) The members of an advisory committee holding office on the 6th day of May, 1913, shall continue to hold office until their successors are appointed as provided by this Act. 3-4 Geo. V. c. 73, s. 8.

9.—(1) An advisory committee may, at a meeting which has been specially called for that purpose and of which notice has been given in writing to all the members, appoint such additional members, hereinafter called co-opted members, as it may deem advisable, and members of the board may be so appointed; but

Co-opted
members.

(a) in the case of an advisory industrial committee an equal number of the persons so appointed shall be chosen from each of the classes mentioned in subclauses (ii) and (iii) of clauses (a) and (b) of subsection 1 of section 6; and

(b) in all cases the members so appointed shall belong to the classes from which persons not members of the board may be appointed by the board to the committee.

(2) The term for which co-opted members of the committee shall respectively hold office shall be fixed by the committee, but shall not exceed three years. 3-4 Geo. V. c. 73, s. 9.

Tenure of
office.

10. The members of a committee appointed under this Act, including co-opted members, shall be British subjects, and shall be persons who, in the judgment of the board, are specially competent to give advice and other assistance in the management of the school or course under the charge of the committee. 3-4 Geo. V. c. 73, s. 10.

Qualifica-
tion of
members.

11.—(1) Subject to the approval of the Minister and the board, every advisory committee shall have authority to provide a suitable site and building and suitable equipment or to arrange for conducting the school or course in a high, public, separate or continuation school building or other building in the municipality, and to prescribe courses of study and provide for examinations and diplomas.

Powers of
Committee
subject to
approval of
Minister
and Board.

(2) Subject to the approval of the board, the committee shall employ teachers and fix their salaries, report on every school or course under its charge, fix the fees payable by pupils in attendance, submit annually to the board at such date as the board may prescribe an estimate of the amount required to carry on the work of the school or course during the year, and generally do all other things necessary for carrying out the objects and intent of this Act with respect to any school or course under its management and control.

Powers
subject to
approval
of Board.

(3) The board shall not refuse its approval of any report of an advisory committee without having given the committee an opportunity to be heard before the board and before any committee thereof to which such report may be referred by its chairman or by another member of the advisory committee appointed for that purpose.

When
approval
withheld.

Officers
of the
Committee.

(4) The secretary and other officers of the Board shall be the officers of the advisory committees. 3-4 Geo. V. c. 73, s. 11.

Cost of
establishing,
equipping
and main-
taining a
school, etc.

12.—(1) Subject to the Regulations the estimates of the committee of the cost of establishing, equipping and maintaining the school or course under its management and control, when and so far as they have been approved by the board, shall be included in its estimates submitted to the council of the municipality for the year. 3-4 Geo. V. c. 73, s. 12.

(2) Subject to the Regulations, the cost of establishing and maintaining, and of making additions, alterations or permanent improvements to every school established under section 4 or under chapter 79 of the Acts passed in the 1st year of His Majesty's reign, shall be provided in the same manner as in the case of a High School. *See* 1 Geo V. c. 79, s. 11.

Apportion-
ment of
Legislative
grant.

13. Subject to the Regulations the Minister shall apportion all sums of money appropriated by this Legislature for the establishment and maintenance of schools or courses to which this Act applies. 3-4 Geo. V. c. 73, s. 13.

Regulations.

14. The Regulations may provide as to any class of schools or courses for the qualifications of teachers, the courses of study, the character of the site, accommodations, and equipment, the maximum and minimum fees that may be charged to pupils, and generally as to any matter relating to the conduct and efficiency of the schools and courses not herein expressly provided for. 3-4 Geo. V. c. 73, s. 14.

Establish-
ment of
evening
courses.

15. Where an advisory committee and the board of education or the board of public or separate school trustees so agree, evening courses in manual training and household science, art, agriculture or commerce under the charge of the Board shall thereafter be under the control and management of the advisory industrial, agricultural or commercial committee as the case may be. 3-4 Geo. V. c. 73, s. 15.

Establishing
evening
courses in
other
centres.

16. Subject to the approval of the Minister an advisory committee may also establish and conduct special evening courses in any centre in the county outside of the district over which it has jurisdiction. 3-4 Geo. V. c. 73, s. 16.

CHAPTER 277.

An Act respecting the Acquisition of Land for
School Purposes.

HIS MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

1. This Act may be cited as *The School Sites Act*. 9 Edw. VII. c. 93, s. 1. Short title.
2. In this Act Interpretation.
 - (a) "Board" shall mean and include the board of Board.
trustees of a public school section, the board of
trustees of a union school section, a township
board of school trustees, the board of public school
trustees of a city, town or village, a board of
education, a high school board and an advisory
committee appointed under *The Industrial Educa-* Rev. Stat.
c. 276.
tion Act.
 - (b) "County Judge" and "Judge" shall mean the Sen- "County
Judge."
ior Judge of the County or District Court of the
County or District within which the Board has
jurisdiction or, if he is a member of the high
school board or is unable to act or is disqualified,
shall mean the Junior Judge of such County or
District Court, and, if the Junior Judge is also a
member of the Board or is unable to act or is dis- "Judge."
qualified, shall mean the Judge of the County or
District Court of the adjoining County or District
which has the largest population according to the
last Dominion Census.
 - (c) "Owner" shall include a mortgagee, lessee, tenant "Owner."
and occupant and any person entitled to a limited
estate or interest, and a guardian, executor, admin-
istrator or trustee in whom land or any interest
therein is vested.
 - (d) "School site" shall mean the land necessary for a "School
site."
school house, school garden, teacher's residence,
caretaker's residence, drill hall, gymnasium, offices
and play grounds connected therewith, or other
land required for school purposes or for the offices
of a Board. 9 Edw. VII. c. 93, s. 2.

Powers and duties to be subject to regulations. Rev. Stat. c. 265.

3. The powers and duties conferred and imposed upon a Board by this Act shall be subject to the Regulations made under *The Department of Education Act*. 9 Edw. VII. c. 93, s. 3.

Restrictions as to selection in townships.

4.—(1) In a township a school site shall not be selected nor shall an existing school site be enlarged so as to include land which comprises or forms part of or is situate within one hundred yards of an orchard, garden, pleasure-ground or dwelling-house without the consent of the owner of such orchard, garden, pleasure-ground or dwelling-house unless the County Judge, upon the application of the Board and after notice to all persons interested, certifies in writing that other land suitable for the required purpose cannot be obtained.

Exception.

Compensation to owner of orchard, etc.

(2) Where the Judge so certifies the Board shall pay to the owner of the orchard, garden, pleasure-ground or dwelling-house such sum as the Judge, on the application of the owner, shall determine to be a fair compensation for having the school site located within such distance, and the costs of the application shall be in the discretion of the Judge.

Application of section limited.

(3) This section shall not apply to that part of a township which lies within two miles from the limits of a city having a population of over 100,000. 9 Edw. VII. c. 93, s. 4.

Board may purchase or expropriate.

Rev. Stat. c. 266.

5. Subject to the provisions of section 4 and to the provisions of *The Public Schools Act* as to the selection of a site by the Board of a rural school section every Board may acquire by purchase or otherwise or may expropriate any land described in a resolution of the Board declaring that the same is required for a school site or for the enlargement of a school site. 9 Edw. VII. c. 93, s. 5.

Who may sell and convey to Board.

6.—(1) Every corporation, tenant in tail or for life, guardian, executor, administrator and every trustee (not only for and on behalf of himself, his heir and successors but also for and on behalf of those he or they may represent, whether married women, infants, unborn issue, lunatics, or idiots), or other person, seized, possessed of or interested in any land may contract for, sell and convey all or part thereof or any interest therein to a Board for a school site or for an enlargement of or addition to a school site; and any contract, agreement, sale, conveyance or assurance so made shall be valid and effectual to all intents and purposes.

Where there is no person who can convey.

(2) Where there is no person who under the provisions of subsection 1 of this section may contract, sell or convey the Supreme Court may on the application of the Board appoint some person to act for and on behalf of the owner for the purposes mentioned in subsection 1 of this section and in any proceedings which may be taken under this Act. 9 Edw. VII. c. 93, s. 6.

7. Where the owner and the Board are unable to agree on the compensation to be paid to the owner they may in writing agree that the same shall be determined by one or more arbitrators, and the provisions of *The Arbitration Act* shall apply to the submission and to the arbitration and award thereunder. 9 Edw. VII. c. 93, s. 7.

Voluntary
submission to
arbitration.

Rev. Stat. c. 66.

8. Where the owner refuses to sell or demands a price deemed unreasonable by the Board, or where no agreement is made for arbitration under the next preceding section, the Board may appoint an arbitrator and give notice in writing of such appointment to the owner, and if the owner does not within ten days thereafter file with the Secretary or Secretary-Treasurer of the Board a notice in writing naming an arbitrator to act for him the County Judge on the application of the Board shall name an arbitrator on behalf of the owner, and the arbitrators so appointed shall appoint a third arbitrator or, if they are unable to agree, the County Judge on the application of either party may appoint such third arbitrator. 9 Edw. VII. c. 93, s. 8.

Where owner
refuses to
sell or agree
to arbitration.

9.—(1) On filing with the County Judge the certificate of an Ontario Land Surveyor that he is not interested in the matter, that he knows the land, describing it, and that some certain sum named in the certificate is, in his opinion, a fair compensation for the land, the Judge, if satisfied by affidavit or other evidence, that diligent enquiry has been made and that the owner is unknown or cannot be found, may order that a notice be inserted for such time as he may deem proper in some newspaper published in the county or district and may order that notice be also sent to any person by mail or served upon him in such manner as the Judge may direct.

Judge may
order notice to
be published
and mailed.

(2) The notice shall contain a short description of the land and a statement of the readiness of the Board to pay the sum so certified, shall give the name of the person to be appointed as the arbitrator of the Board, and shall state the time within which the offer is to be accepted or an arbitrator appointed by the owner and such other particulars as the Judge may direct.

Contents of
notice.

(3) If within the time stated in the notice the owner does not notify the Board of his acceptance of the sum offered or appoint an arbitrator the Judge may on the application of the Board appoint some competent person to be the sole arbitrator.

Appointment
of sole
arbitrator.

(4) An Ontario Land Surveyor who has given the certificate shall not be named as or appointed an arbitrator. 9 Edw. VII. c. 93, s. 9.

Surveyor
giving certi-
cate not to act.

10. The arbitrators appointed under this Act or a majority of them or the sole arbitrator may hear and determine all claims or rights of encumbrancers, lessees, tenants, occupants or other persons as well as those of the owner in respect to

Arbitrators
may determine
claims of
encumbrancer,
etc.

the land, provided that in such case the claimant or other person has first received ten clear days' notice of the intention to determine his claim or right. 9 Edw. VII. c. 93, s. 10.

Damages
caused by
severance.

11. Where part only of the lot or parcel of land of the owner is required the arbitrators shall include in the compensation the amount which will in their opinion compensate the owner for any damage directly resulting from severance. 9 Edw. VII. c. 93, s. 11.

Right of
desistment.

12.—(1) A notice of intention to acquire land may be desisted from by the board at any time within twenty-one days after the publication of the award by giving written notice to the arbitrators, and the Board in that case shall pay the whole costs of the arbitration.

Not to be
exercised more
than once.

(2) The right of desistment shall not be exercised more than once. 9 Edw. VII. c. 93, s. 12.

Costs of
arbitration.

13. The costs of the arbitration and award shall be in the discretion of the arbitrators, who may direct to and by whom and in what manner such costs or any part thereof shall be paid, and they may award any costs to be paid as between solicitor and client. 9 Edw. VII. c. 93, s. 13.

Time within
which award
to be made.

14. The arbitrators shall make their award within three months after entering on the reference or after being called on to act by notice in writing from the Board or the owner or any other person interested, or on or before any later day to which the arbitrators or a majority of them by writing signed by them may from time to time enlarge the time for making the award. 9 Edw. VII. c. 93, s. 14.

Form of
award.

15. The award shall be in writing and, if required by the Board, shall be in duplicate, and shall contain a description of the land sufficient for the purpose of registration, and may be registered in the proper registry office on the affidavit of the Secretary of the Board verifying the same and showing that all money awarded by the arbitrators to be paid by the Board has been duly paid as required or permitted by this Act. 9 Edw. VII. c. 93, s. 15.

Registration.

Award to be
good title.

16. Upon such registration the land shall be vested in the Board, and the award shall be a good title thereto against all persons whomsoever. 9 Edw. VII. c. 93, s. 16.

Compensation
to be paid
within thirty
days.

17.—(1) Every sum awarded to be paid as compensation shall be paid within thirty days after the publication of the award.

Payment into
court.

(2) Where the person entitled thereto is absent or where for any other reason payment of such sum cannot be made pursuant to the award, or if the title to the land or any interest therein or the right to any part of the compensation is in

doubt, or if for any other reason the Board deems it advisable the Board may pay the sum awarded or any part thereof into the Supreme Court with six months' interest thereon. 9 Edw. VII. c. 93, s. 17.

18. The compensation for any land which is taken without the consent of the owner shall stand in the stead of the land; and any claim to or incumbrance upon such land, or any part thereof, shall, as against the Board, be converted into a claim to the compensation or to a like proportion thereof and it shall be responsible accordingly whenever it has paid the compensation, or any part thereof, to a person not entitled to receive the same, saving always its recourse against such person. 9 Edw. VII. c. 93, s. 18.

19. An award shall not be deemed invalid or be set aside because of failure to comply with any of the provisions of this Act unless in the opinion of the tribunal before which the award is called in question the same will cause substantial injustice to some person affected thereby. 9 Edw. VII. c. 93, s. 19.

20.—(1) Any question touching the validity of proceedings taken, or an award made under this Act, or, in the case of arbitrations other than those provided for in section 7, as to the compensation awarded shall be raised, heard and determined upon a summary application by way of appeal to the County Judge and not otherwise.

(2) No such appeal shall lie unless one of the parties has required the evidence to be taken down in writing in which case it shall be the duty of the arbitrators so to do.

(3) The decision of the Judge shall be final unless special leave to appeal therefrom is given by a Judge of the Supreme Court, and if such leave is given an appeal shall lie to a Divisional Court and the decision of the Divisional Court shall be final. 9 Edw. VII. c. 93, s. 20.

21. Except as herein otherwise provided the provisions of *The Arbitration Act* as to procedure upon a reference to arbitration, including the summoning and calling of witnesses, the hearing of evidence and the production of books, papers, documents and things, and the powers and duties of arbitrators shall apply to every arbitration under the provisions of this Act. 9 Edw. VII. c. 93, s. 21.

CHAPTER 278.

An Act respecting Conveyances to Trustees for School Purposes.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The School Trust Conveyances Act*.

Conveyance of property for school sites to trustees.

2. Where persons, residing in Ontario, interested in any school established in any city, town, village or township therein whether as parents of children frequenting such schools, or as contributors to the same, or both, have occasion, or are desirous to take a conveyance of real property for the use of such schools, such persons may elect from among themselves, and appoint trustees, not exceeding seven nor less than five in number, to whom and to whose successors, to be appointed in the manner specified in the deed of conveyance, the real property requisite for such school may be conveyed. R.S.O. 1897, c. 295, s. 1.

Powers of trustees to hold.

3.—(1) Such trustees and their successors in perpetual succession, by the name expressed in such deed, may take, hold and possess such real property, and bring and maintain any action for the protection thereof, and of their right thereto; but there shall not be so held in trust more than ten acres of land at any time for any one school.

(2) This section shall not extend to public schools. R.S.O. 1897, c. 295, s. 2.

Registration of deed.

4. The trustees shall, within twelve months after the execution of any such deed, cause the same to be registered in the registry office of the registry division in which the land lies. R.S.O. 1897, c. 295, s. 3.

CHAPTER 279.

An Act respecting the University of Toronto.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

INTERPRETATION AND GENERAL PROVISIONS.

1. This Act may be cited as *The University Act.*, 6 Edw. Short title. VII. c. 55, s. 1.

2. In this Act, Interpretation.

(a) "Appointed members" shall mean the members of the Board appointed by the Lieutenant-Governor in Council; "Appointed members."

(b) "Board" shall mean Governors of the University of Toronto; "The Board."

(c) "College" shall include a school or other institution of learning; "College."

(d) "Head," when it refers to the head of a federated university or of a federated college, shall mean the person who is or is certified by the governing body of such university or college to be the head thereof; "Head."

(e) "Property" shall include real property and all other property of every nature and kind; "Property."

(f) "Real property" shall include messuages, lands, tenements and hereditaments whether corporeal or incorporeal, and any undivided share thereof and any estate or interest therein; "Real property."

(g) "Teaching staff" shall include professors, associate professors, lecturers, instructors, demonstrators and all others engaged in the work of teaching or giving instruction; "Teaching staff."

(h) "Trinity College" shall mean Trinity College established and incorporated by the Act passed in the 14th and 15th years of the reign of Her late Majesty, Queen Victoria, chaptered 32, and as constituted a University by Royal Charter bearing date the sixteenth day of July, 1853; "Trinity College."

"The University."

(i) "University" shall mean University of Toronto.
6 Edw. VII. c. 55, s. 2.

University,
University College,
etc., continued.

3. The Provincial University, known as the University of Toronto, the Provincial College, known as University College, the Senate, Convocation, the several faculties of the University and the Faculty of University College, are and each of them is hereby continued, and, subject to the provisions of this Act, shall respectively have, hold, possess and enjoy all the property, rights, powers and privileges which they respectively now have, hold, possess or enjoy. 6 Edw. VII. c. 55, s. 3.

Appointments,
statutes and
regulations,
continued.

4. All appointments in and statutes and regulations affecting the University and University College and each of them shall continue, subject to the provisions of this Act, and subject also, as to the teaching staff, and all officers, servants and employees, to their removal by the Board. 6 Edw. VII. c. 55, s. 4.

Proclamation
changing name
of University.

5.—(1) If and when a proclamation to that effect is issued by the Lieutenant-Governor in Council, the name of the University shall be changed to and the University shall be known as "The University of Ontario" from and after such date as shall be named in the proclamation for the change taking effect.

When proclamation may be issued.

(2) The proclamation shall not be issued unless and until a statute of the Senate approving of the change has been passed by the vote of at least three-fourths of the members thereof present at a meeting called for the purpose of considering the question of making such change and unless and until the change has been sanctioned by the Board. 6 Edw. VII. c. 55, s. 5.

School of Practical Science to mean Faculty of Applied Science, etc.

6.—(1) Whenever in any Act or document reference is made to the School of Practical Science, the same shall apply and extend to the Faculty of Applied Science and Engineering.

Money expended by board in maintenance of such faculty.

(2) All money expended by the Board in the maintenance of the faculty shall for the purposes and within the meaning of the agreement bearing date the second day of March, 1889, between Her late Majesty, Queen Victoria, and the Corporation of the City of Toronto, be deemed to be money expended by "Her Majesty and Her Successors acting by and through the Executive Council of the Province of Ontario." 6 Edw. VII. c. 55, s. 6, *part*.

FEDERATED AND AFFILIATED INSTITUTIONS.

Universities and colleges, federated or affiliated.

7.—(1) Every university and every college federated with the University and every college affiliated with the University shall continue to be so federated or affiliated, subject to any statute in that behalf and to this Act.

(2) A college affiliated with a federated university at the time of its federation with the University, whether heretofore or hereafter entered into, shall be deemed to be affiliated with the University. Colleges affiliated with federated University.

(3) The following are declared to be the universities federated with the University, that is to say, Victoria University and Trinity College. Victoria and Trinity.

(4) The following are declared to be the colleges federated with the University, that is to say, Knox College, Wycliffe College and St. Michael's College. Knox, Wycliffe and St. Michael's. 6 Edw. VII. c. 55, s. 7 (1-4).

(5) The following are declared to be the colleges affiliated with the University, that is to say: Albert College, The Ontario Agricultural College, The Ontario Medical College for Women, The Royal College of Dental Surgeons, The Toronto College of Music, The Ontario College of Pharmacy, The Toronto Conservatory of Music, The Hamilton Conservatory of Music, The Columbian Methodist College, and The Ontario Veterinary College; The Ontario Ladies' College and Alma College, which are affiliated with the University by reason of their having been affiliated with Victoria University when that University became federated with the University, and St. Hilda's College, which is affiliated with the University by reason of its having been affiliated with Trinity College when Trinity College became federated with the University. 6 Edw. VII. c. 55, s. 7 (5); 3-4 Geo. V. c. 74, s. 1. Affiliated colleges.

(6) A college affiliated with the University since the 15th day of April, 1901, or hereafter affiliated with it shall not be entitled to representation on the Senate unless so declared by statute. Affiliated colleges, when to be represented in Senate.

(7) The Senate may remove from federation or affiliation with the University any college, now or hereafter federated or affiliated with it, which becomes an integral part of or federates or affiliates with any other university which has and exercises the powers of conferring any degrees other than those in theology. Removal of college from federation or affiliation.

(8) If and when any university now or hereafter federated with the University ceases to be federated with it, every college which is affiliated with the University by reason only of its having been affiliated with such federated university shall thereupon and thereafter cease to be affiliated with the University, but shall retain the same relation with the federated university with which it was affiliated as existed when such federated university became federated with the University. 6 Edw. VII. c. 55, s. 7 (6-8). Colleges affiliated with federated university to cease to be affiliated with university on dissolution of federation.

(9) The Arts faculties of Victoria University, Trinity College and St. Michael's College in their relation to the Arts faculties of Victoria, Trinity and St. Michael's.

University shall be known as and may be called colleges of the University bearing respectively as such colleges the names Victoria College, Trinity College and St. Michael's College. 6 Edw. VII. c. 55, s. 7 (9).

Admission of universities to federation.

8.—(1) When any University in Ontario determines to surrender its degree-conferring powers, except the power of conferring degrees in theology, and notifies the Board of such determination, the Board may by statute declare such university to be federated with the University on and from a day to be named in the statute, and thereupon and thereafter the power of such federated university to confer degrees, except in theology, shall be suspended.

Publication of statute.

(2) Every such statute shall be published forthwith after the passing thereof in the *Ontario Gazette*.

Suspension of degree-conferring powers during federation.

(3) The power and authority of conferring degrees, except in theology, of any university now or hereafter federated with the University shall be suspended and in abeyance, but may be resumed by such federated university if three years have elapsed from the date when its federation with the University took effect, and if after the lapse of such three years one year's notice in writing of its intention to resume its degree-conferring powers has been given to the Board; and such federated university shall cease to be federated with the University at and after the expiry of the last mentioned period.

Proviso.

Notice of dissolution of federation.

(4) Notice that any such federated university has ceased to be federated with the University and the date when it ceased to be so federated shall be published in the *Ontario Gazette*.

Rights of graduates and undergraduates of federated university.

(5) The graduates and undergraduates in Arts, Science and Law of a federated university and such graduates and undergraduates thereof in Medicine as have passed their examinations in Ontario, so long as such federation continues, shall have and enjoy the same degrees, honours and status in the University as they held and enjoyed in the federated university. 6 Edw. VII. c. 55, s. 8.

Religious tests, etc., not required.

9.—(1) No religious test shall be required of any professor, lecturer, teacher, officer or servant of the University or of University College, or of any student thereof or therein, nor shall religious observances according to the forms of any religious denomination or sect be imposed on them or any of them, but the Board may make regulations touching the moral conduct of the students thereof and therein and their attendance on public worship in their respective churches or other places of religious worship and their religious instruction by their respective ministers, according to their respective forms of religious faith, and every requisite facility shall be afforded for such purposes, but attendance on such forms

Moral and religious training.

of religious observance shall not be compulsory on any student attending the University or University College.

(2) Nothing in this section shall interfere with the right of a federated university or college to make such provision in regard to religious instruction and religious worship for its own students as it may deem proper, and to require the same to be observed as a part of its own discipline. Rights of federated universities and colleges as to religion.

6 Edw. VII. c. 55, s. 9.

PROPERTY.

10.—(1) Separate accounts of the proceeds of the sales of the lands set apart for the use of the University and University College or either of them by the Act passed in the 60th year of the reign of Her late Majesty, Queen Victoria, chaptered 59, and by the Act passed in the third year of the reign of His late Majesty King Edward the Seventh, chaptered 36, as amended by the Act passed in the 5th year of the same reign, chaptered 36, and by the Act passed in the last mentioned year chaptered 37, shall continue to be kept by the proper officers and departments and yearly accounts thereof to be furnished to the Board, as provided in those Acts, and all money derived from such sales shall be paid to the Board free from all charges or deductions for management or otherwise. Accounts of proceeds of sales of lands set apart for University and University College.

(2) The repeal of the Acts and parts of Acts mentioned in subsection 1 shall not affect or impair the right of the University and University College or either of them to have the lands mentioned therein set apart in accordance with and subject to the provisions thereof. 6 Edw. VII. c. 55, s. 10. Rights of university as to such lands preserved.

(3) The annual grant of \$7,000, provided for by the first mentioned Act, shall continue to be paid to the Board as provided therein, and the same shall form a charge upon and be paid from time to time out of the Consolidated Revenue Fund. 6 Edw. VII. c. 55, s. 11. Annual grant of \$7,000 continued.

11. All property heretofore or hereafter granted, conveyed, devised or bequeathed to any person in trust for or for the benefit of the University and University College or either of them or of any faculty or department thereof or otherwise in connection therewith, subject always to the trust affecting the same, shall be vested in the Board. 6 Edw. VII. c. 55, s. 12. Property vested in trustees transferred to Board.

12. The land demised to the Corporation of the City of Toronto for the purpose of a park under the authority of section 66 of chapter 62 of the Consolidated Statutes of Upper Canada shall, so long as the lease remains in force, form part of the City of Toronto and the residue of the land adjacent to the park which is vested in the Board, shall be Queen's Park.

subject to the police regulations of the corporation and the council thereof and except as herein otherwise provided to the by-laws thereof. 6 Edw. VII. c. 55, s. 14.

Application of
statute of
limitations as
to property.

13. All real property vested in the Board shall, as far as the application thereto of any statute of limitations is concerned, be deemed to have been and to be real property vested in the Crown for the public uses of Ontario. 6 Edw. VII. c. 55, s. 15.

Former dedi-
cation to
university not
to affect status
of lands as
Crown lands.

14. The dedication heretofore by the Crown for any purpose of any real property held for the purposes of the University and University College or either of them has not taken away from such real property any rights or privileges which it enjoyed as Crown lands or prejudicially affected the same, but all such rights and privileges remain in full force and effect. 6 Edw. VII. c. 55, s. 16.

Land vested
in Board not
liable to expro-
priation.

15.—(1) The real property vested in the Board shall not be liable to be entered upon, used or taken by any municipal or other corporation or by any person possessing the right of taking land compulsorily for any purpose; and no power to expropriate real property hereafter conferred shall extend to such real property unless in the Act conferring the power it is made in express terms to apply thereto.

Nor land
vested in the
other bodies.

(2) Subsection 1 shall apply to real property owned by or vested in any university or college federated with the University. 6 Edw. VII. c. 55, s. 17.

Exemption of
property from
taxation.

16.—(1) The property real and personal vested in the Board shall not be liable to taxation for provincial, municipal or school purposes, and shall be exempt from every description of taxation; but except as mentioned in subsection 2 the interest of every lessee and occupant of real property vested in the Board shall be liable to taxation.

Lessees, etc.,
liable.

Lessees or
occupants of
certain land
exempted.

(2) The liability to taxation of the interest of a lessee or occupant mentioned in this section shall not extend to the interest of a lessee or occupant being a member of the teaching staff or an officer or servant of the University or of University College who, or being an association of under-graduates or an incorporated society of under-graduates or of graduates and under-graduates which, is the lessee or occupant of any part of the property commonly known as the University Park, composed of the north halves of Park lots numbers eleven, twelve and thirteen in the first concession from the Bay, in the Township of York, now in the City of Toronto, and including that part of park lot number fourteen in the first concession, described in a conveyance to Her late Majesty Queen Victoria, registered as number 8654R in the registry office of the eastern division of the City of Toronto, but the interest of every such lessee or occupant shall be exempt from taxation.

(3) Those parts of the lots mentioned in subsection 2^{Certain land of federated bodies also exempt.} which are now or hereafter may be owned, leased or occupied by any federated university or federated college for the purposes of such university or college shall also be exempt from taxation in the same way and to the same extent as the real property vested in the Board is by subsection 1 exempted from taxation. 6 Edw. VII. c. 55, s. 18.

17. Any person with the approval of the Board may, ^{Endowment of chairs or scholarships.} under and subject to such terms and conditions as he may prescribe, endow a chair or found a scholarship in the University or University College, or aid the University and University College and each of them by providing an endowment for any other purpose or object in connection therewith. 6 Edw. VII. c. 55, s. 19.

BOARD OF GOVERNORS.

18. The Board of Governors of the University and University College is continued as a body corporate by the name and style of "The Governors of the University of Toronto," and shall have in addition to the rights, powers and privileges mentioned in section 27 of *The Interpretation Act*, the power ^{Board of Governors.} to take and hold real property for the purposes of the University and of University College without license in mortmain. 6 Edw. VII. c. 55, ss. 20 and 21. - ^{Rev. Stat. c. 1.}

19. The Board shall consist of the Chancellor and the President of the University, who shall be *ex officio* members, ^{Composition of Board.} and twenty-two persons appointed by the Lieutenant-Governor in Council. 6 Edw. VII. c. 55, s. 24; 3-4 Geo. V. c. 74, s. 3.

20. No person shall be eligible for appointment as a member of the Board unless he is a British subject, and a resident of Ontario. 6 Edw. VII. c. 55, s. 25. ^{Disqualifications.}

21. One of the members of the Board shall be appointed ^{Chairman.} by the Lieutenant-Governor in Council to be its Chairman. 6 Edw. VII. c. 55, s. 26.

22.—(1) The Board may appoint one of its members to be Vice-Chairman, and in case of the absence or illness of the Chairman, or of there being a vacancy in the office of Chairman, the Vice-Chairman shall act as and have all the powers of the Chairman. ^{Appointment of Vice-Chairman.}

(2) In case of the absence or illness of the Chairman, and the Vice-Chairman, the Board may appoint one of its members to act as Chairman *pro tempore* and the member so appointed shall act as and have all the powers of the Chairman. ^{Chairman pro tempore.}

Validity of
their acts.

(3) All acts which lawfully might have been done by the Chairman, when done by the acting Vice-Chairman, or by a Chairman *pro tempore* shall be conclusively deemed to have been lawfully done, and it shall not be necessary to prove that any of the causes mentioned in subsection 1 for the Vice-Chairman acting, or that any of the causes mentioned in subsection 2 for the appointment of a Chairman *pro tempore* in fact existed. 7 Edw. VII. c. 53, s. 2.

Quorum.

23. Unless and until otherwise provided by the Board, seven members shall constitute a quorum. 6 Edw. VII. c. 55, s. 28.

Ten members
may exercise
powers.

24. Notwithstanding any vacancy in the Board, as long as there are at least ten members it shall be competent for the Board to exercise all or any of its powers. 6 Edw. VII. c. 55, s. 29.

Term of office.

25. The appointed members of the Board shall hold office for six years, and until their successors are appointed. 6 Edw. VII. c. 55, s. 30, 31.

Members may
be re-appointed

26. An appointed member of the Board shall be eligible for re-appointment. 6 Edw. VII. c. 55, s. 32.

Removal from
office.

27. An appointed member of the Board may be removed by the Lieutenant-Governor in Council. 6 Edw. VII. c. 55, s. 33.

Heads of
federated
universities,
etc., ineligible

28.—(1) The head of University College, the head of a federated university, or of a federated or an affiliated college, a member of the teaching staff of the University, of University College, of a federated university, or of a federated or affiliated college, shall not be eligible to be appointed as a member of the Board. 6 Edw. VII. c. 55, s. 34.

Vacancies.

(2) If a member of the Board, after his appointment, accepts or occupies any of such offices or positions, or goes to reside out of Ontario, or becomes insane or otherwise incapable of acting as a member, he shall *ipso facto* vacate his office, and a declaration of the existence of such vacancy entered upon the minutes of the Board shall be conclusive evidence thereof. 6 Edw. VII. c. 55, s. 35.

Filling
vacancies.

29. Where a vacancy on the Board happens before the term of office for which a member has been appointed has expired, the vacancy shall be filled by the appointment by the Lieutenant-Governor in Council of a successor, who shall hold office for the remainder of the term. 6 Edw. VII. c. 55, s. 36.

Government,
etc., of Univer-
sity vested in
Board.

30. The government, conduct, management and control of the University and of University College, and of the property, revenues, business and affairs thereof, shall be vested in the Board. 6 Edw. VII. c. 55, s. 37.

31.—(1) In order to enable the Board to provide for the purchase of such land, and the erection of such buildings as from time to time may be necessary for the purposes of the University and University College, including additions to, improvements of, and equipment for buildings now or hereafter erected, the Board may from time to time borrow such sums, not exceeding in the whole \$2,000,000, as may be necessary for such purposes, and may make and execute such instruments as may be deemed requisite for securing payment of the sums so borrowed, and the interest thereon.

Borrowing powers of Board

(2) The sums so borrowed and the interest thereon shall stand and be charged upon all the property vested in, and the revenues and income of the Board, and it shall not be necessary that any formal instrument declaring such charge shall be executed or registered.

Money borrowed to be charge on property.

(3) The power of borrowing hereby conferred shall not be exercised unless with the approval of the Lieutenant-Governor in Council, who may prescribe the terms and conditions on which from time to time the power shall be exercised and the money borrowed, and the nature of the securities to be given by the Board for the repayment of the money borrowed and of the interest thereon, which may be bonds, debentures, terminable annuities or such other form of security as the Lieutenant-Governor in Council may direct or authorize.

Approval of Lieutenant-Governor in Council.

(4) The power of borrowing hereby conferred shall be a continuing one, and shall include the power of reborrowing, but the amount of the principal money at any time owing shall not exceed in the whole \$2,000,000.

Borrowing powers exercisable from time to time.

(5) The Lieutenant-Governor in Council for and in the name of the Province of Ontario may guarantee the securities for all sums borrowed by the Board under the authority of this section, and the performance of the stipulations on its part contained in such securities.

Lieutenant-Governor in Council may guarantee loans.

(6) The form and manner of the guaranty shall be determined by the Lieutenant-Governor in Council and the guaranty shall be signed by the Treasurer of Ontario or by such officer or person as shall be designated for that purpose by the Lieutenant-Governor in Council.

Form of guaranty.

(7) Every guaranty so signed shall be binding on the Province and the purchaser of any security so guaranteed shall not be bound to inquire into the authority of the officer or person signing the guaranty. 7 Edw. VII. c. 53, ss. 5-10.

32. Without thereby limiting the general powers by this Act conferred upon or vested in the Board, it is declared that the Board shall have power to

Powers of Board.

(a) make rules and regulations pertaining to the meetings of the Board and its transactions, for fixing

Conduct of proceedings.

the quorum of the Board, and for the appointment of such committees as it may deem necessary, and for conferring upon any of such committees power and authority to act for the Board in and in relation to such matters as the Board may deem it expedient to delegate to a committee with power to act for the Board;

Appointment
of President,
Deans, Profes-
sors, etc.

- (b) appoint the President of the University, the Principal of University College, the Deans of all the faculties, the Librarian, the Bursar, the Registrar of the University, the Registrar of University College, the professors, teachers and instructors of and in the University and in University College, and all such officers, clerks, employees and servants as the Board may deem necessary for the purposes of the University and University College or either of them, and fix their salaries or remuneration, and define their duties, except those of the Librarian, and their tenure of office or employment, which, unless otherwise provided, shall be during the pleasure of the Board;

Appointments
to be approved
by the
President.

- (i) No person shall be appointed as Principal of University College, or as a Dean of any faculty, or as a member of the teaching staff of the University, or of any faculty thereof or of University College, unless he has been first nominated by the President of the University and no Dean of a faculty or member of the teaching staff of the University or of any faculty thereof, or of University College, shall be promoted, and no principal of University College or Dean of a faculty or member of such teaching staff shall be removed from office except upon the recommendation of the President of the University, but this provision shall not apply where there is a vacancy in the office of President.

Removals.

Superannua-
tion and
retirement.

- (c) make regulations respecting and provide for the retirement and superannuation of any of the persons mentioned in subsection 2, or the payment of a gratuity to any of them upon retirement, and provide that any superannuation or retiring allowance or gratuity shall be paid out of a fund which may be created for that purpose either with the money of the Board or by contributions from such persons, or partly by both;

Investments.

- (d) subject to the limitations imposed by any trust as to the same, invest all such money as shall come to the hands of the Board, and is not required to be expended for any purpose to which it law-

fully may be applied, in such manner as to the Board may seem meet;

- (e) purchase, take and hold by gift or devise real property for the purposes of the University and University College, or either of them, without license in mortmain; Acquiring and holding real property.

- (i) Every person shall have the unrestricted right to devise and bequeath property, real and personal, for the purposes of the University and University College, or either of them, to the Board, or otherwise for such purposes.

- (f) purchase and acquire all such property as the Board may deem necessary for the purposes of the University and University College, or either of them; Acquiring other property.

- (i) The power conferred by this paragraph shall include that of purchasing the interest of a lessee in any real property vested in the Board which is under lease. 6 Edw. VII. c. 55, s. 39 (1-6).

- (g) without the consent of the owner or of any person interested therein enter upon, take, use and appropriate all such real property as the Board may deem necessary for the purposes of the University and University College, or either of them, or of any other university or college federated with the University at the cost and expense of such federated university or college, making due compensation for any such real property to the owners and occupiers thereof, and all persons having any interest therein; 6 Edw. VII. c. 55, s. 39 (7); 10 Edw. VII. c. 26, s. 15. Expropriation of lands.

- (i) The provisions of *The Municipal Act* as to taking land compulsorily and making compensation therefor and as to the manner of determining and paying the compensation, shall *mutatis mutandis* apply to the Board, and to the exercise by it of the powers conferred by this paragraph, and where any act is by any of such provisions required to be done by the clerk of a municipality, or at the office of such clerk, the like act shall be done by the Bursar of the University, or at his office, as the case may be. 6 Edw. VII. c. 55, s. 39 (8); 3-4 Geo. V. c. 74, s. 4. Rev. Stat. c. 192.

- (h) acquire, hold, maintain and keep in proper order and condition such real property as the Board may deem necessary for the use of the students Acquiring and maintaining real property for athletic purposes.

of the University and University College, and each of them, for athletic purposes, and erect and maintain such buildings and structures thereon as it may deem necessary;

Physical
training.

- (i) make such regulations and provide such means for the physical examination, instruction and training of the students of the University and University College as to the Board may seem meet;

Selling and
leasing lands.

- (j) sell any of the real property vested in the Board or lease the same for any period not exceeding twenty-one years to commence in possession, with such right of renewal and under and subject to such rents, covenants, agreements and conditions as to the Board may seem meet;

Expenditure of
funds in main-
tenance and
improvements.

- (k) lay out and expend such sums as the Board may deem necessary for the support and maintenance of the University and University College, and each of them, and for the betterment of existing buildings, and the erection of such new buildings as the Board may deem necessary for the use or purposes of the University and University College, and of each of them, and for the furnishing and equipment of such existing and newly erected buildings;

Residences and
dining halls,
etc.

- (l) lay out and expend such sums as the Board may deem necessary for the erection, equipment, furnishing and maintenance of residences and dining halls for the use of the students of the University and University College, and of each of them, whether such students are graduates or undergraduates, and acquire and take over from any corporation any rights and powers possessed by it in respect of University residences and any property vested in it, on such terms as may be agreed on between such corporation and the Board;

- (i) Such corporation may enter into and carry out any agreement for such purposes, and upon the agreement being completed such corporation shall, if so provided by the terms of the agreement, be dissolved, and its rights, powers and property be vested in the Board.

Control of resi-
dences, etc.

- (m) make such rules and regulations as may to the Board seem meet for the management, government and control of such residences and dining halls;

Establishing
faculties, de-
partments, etc.

- (n) establish such faculties, departments, chairs and courses of instruction in the University, and such

departments, chairs and courses of instruction in University College in any subject except theology, as to the Board may seem meet;

- (o) provide for the federation with the University of ^{Federation of colleges.} any college established in Ontario for the promotion of Art or Science, or for instruction in Law, Medicine, Engineering, Agriculture or any other useful branch of learning, on such terms as to representation on the Senate, and otherwise, as to the Board may seem meet, and enter into any agreement which may be deemed necessary to effectuate such federation;
- (p) provide for the affiliation with the University of ^{Affiliation of colleges.} any college established in Canada for the promotion of Art or Science, or for instruction in Law, Medicine, Engineering, Agriculture or any other useful branch of learning, on such terms as to representation on the Senate and otherwise as to the Board may seem meet, and enter into any agreement which may be deemed necessary to effectuate such affiliation;
- (q) provide for the dissolution of any such affiliation ^{Dissolution of affiliation.} or of any existing affiliation or for the modification or alteration of the terms thereof;
- (r) fix the fees to be paid for post-graduate instruction, ^{Fees.} and for instruction in the faculties of medicine and applied science and engineering, and in any other faculty hereafter established, the fees to be paid by regular and occasional students in the University and in University College for enrolment therein, the library fees, the laboratory fees, the gymnasium fees, the fees for physical examination and instruction, and the fees for examinations, degrees and certificates, and when a federated college by arrangement with the proper authorities teaches any part of the course in Arts, make such a reduction in the fees, payable by the students so taught in such college as to the Board may seem reasonable;
- (s) enter into such arrangements with the governing ^{Arrangements with secondary and primary schools.} body of any secondary or primary school as the Board may deem necessary for the purpose of or in connection with the academic work of the University or of any faculty or department thereof;
- (i) The governing body of any such school which is a collegiate institute, a high school, a technical school or public or separate school, may, with the approval of the Lieutenant-

Governor in Council, make such arrangements with the Board. 6 Edw. VII. c. 55, s. 39 (9-20); and

- (t) establish, erect, equip, maintain and conduct such primary and secondary schools as may be deemed requisite for the purpose of practice and observation or otherwise for or in connection with the Faculty of Education, and fix the fees to be paid for instruction in such schools. 7 Edw. VII. c. 53, s. 3.

Alterations to constitution.

33. The Board may modify, alter and change the constitution of any body constituted or continued by this Act, except the Senate, and create such new bodies as may be deemed necessary for the purpose of carrying out the objects and provisions of this Act, and also confer upon the bodies constituted or continued by this Act, or any or either of them, and upon any new body hereafter constituted, such powers as to the Board may seem meet, but nothing herein shall authorize any abridgement of the powers conferred upon the Senate by section 48. 6 Edw. VII. c. 55, s. 40.

Committee of students.

34.—(1) The Board may make provision for enabling the students of the University, University College and the federated universities and federated colleges to appoint a representative committee of themselves to be chosen in such manner as shall be approved by the Board, which shall be the recognized official medium of communication on behalf of such students between them and the Board.

Right to make communications.

(2) The committee shall have the right to make communications through the President of the University to the Board upon any subject in which they are or may deem themselves to be interested.

Saving individual rights.

(3) Nothing herein shall take away or impair the right of any student of or in the University or University College to make complaint to the governing bodies thereof or to the Board in respect of any matter as to which he is or may deem himself to be entitled to complain; but every such complaint shall be transmitted through the President to the Board or to the proper governing body, as the case may be, and in no other manner.

Saving control of federated bodies.

(4) Nothing in this section shall impair or affect the right of control which any federated university or college possesses over its students. 6 Edw. VII. c. 55, s. 41.

Endowment not to be impaired without consent of Government.

35.—(1) The Board shall not incur any liability or make any expenditure which has the effect of impairing the endowment of the University and University College, or any addition to such endowment hereafter made, unless an estimate therefor has been first made and approved by the Lieutenant-Governor in Council.

(2) In this section "endowment" shall mean and include the real property vested in the Board, the proceeds of any part thereof sold, and the money invested in mortgages or other securities. "Endowment," meaning of.

36. The Board shall not incur any liability or make any expenditure for the purchase of land or the erection of buildings unless the same can be met and is provided for out of the income of the year, or is sanctioned by the Lieutenant-Governor in Council. 6 Edw. VII. c. 55, s. 42. Restriction as to expenditure.

37. Save as in this Act otherwise expressly provided, the action of the Board in any matter with which it may deal shall be by resolution or by statute, as the Board may determine, but it shall not be essential to the validity of any such resolution or statute that it be under the corporate seal of the Board if it is authenticated in the manner prescribed by the Board. 6 Edw. VII. c. 55, s. 43. Action of Board by resolution of statute.

38.—(1) The accounts of the Board shall be audited at least once a year by the Provincial Auditor, or by some person appointed by the Lieutenant-Governor in Council for that purpose. Accounts of Board, audit of.

(2) The Board shall make an annual report of its transactions to the Lieutenant-Governor in Council, in which shall be set forth in detail the receipts and expenditures for the year ended on the next preceding thirtieth day of June, and of the investments as they stood at the end of such year, and such other particulars as the Lieutenant-Governor in Council may from time to time require. 6 Edw. VII. c. 55, s. 44 (1) (2). Annual report to Government.

(3) The report shall be transmitted to the Provincial Secretary on or before the first day of December next after the close of the year for which it is made, and shall be laid before the Assembly forthwith if the Assembly is then in session or if it is not then in session, within ten days after the commencement of the next session. 6 Edw. VII. c. 55, s. 44 (3); 3-4 Geo. V. c. 74, s. 5. When report to be transmitted.

39. Without the written consent of the Attorney-General no action shall be brought against the Board or against any member of it on account of anything done or omitted by him in the execution of his office. 6 Edw. VII. c. 55, s. 45. Consent of Attorney-General to actions against Board

40. If any question arises as to the powers or duties of the Council of University College, of the council of any faculty, of the Caput, of the President, of the Principal of University College, or of any officer or servant of the University or of University College, the same shall be settled and determined by the Board, whose decision shall be final. 6 Edw. VII. c. 55, s. 46. Powers of Board as to deciding questions as to powers and duties.

THE SENATE.

Senate, how
composed.

41. The Senate of the University shall be composed as follows:

Chancellor
and heads of
colleges, etc.

- (a) The Chancellor of the University, the Chairman of the Board, the President of the University, the Principal of University College, the President or other head of every federated university and federated college, the Deans of the faculties of the University, and all persons who at any time have occupied the office of Chancellor or Vice-Chancellor of the University or for the period of seven years have occupied the office of President of the University shall be *ex-officio* members. 6 Edw. VII. c. 55, s. 47 (1); 7 Edw. VII. c. 52, s. 4.

Faculties,
representation
of.

- (b) The Faculties shall be entitled to representation as follows:

The Faculty of Arts of the University by the professors (not including associate professors) of the faculty, each of whom shall be a member of the Senate;

The Faculty of Medicine by five members;

The Faculty of Applied Science and Engineering by five members;

The Faculty of University College by three members;

The Faculty of Arts of Victoria University by three members;

The Faculty of Arts of Trinity College by three members; and

The Faculty of Arts of every university hereafter federated with the University by three members;

- (i) The representatives of the Faculties of the University, except of the Faculty of Arts, and the representatives of the Faculty of University College and of the Faculties of Arts of the federated universities shall be chosen by the members thereof.

Federated
universities
and colleges,
law society
and affiliated
colleges repre-
sentation of.

- (c) One member shall be appointed by each federated university, two members shall be appointed by each federated college, one member shall be appointed by the Law Society of Upper Canada, and subject to any statute, one member shall be appointed by the governing body of every affiliated college which now is or shall hereafter be entitled to appoint a representative;

Graduates,
representation
of.

- (d) Twelve members shall be elected by the graduates in Arts in the University who at the time of graduation were enrolled in University College; five members shall be elected by the graduates in

Arts and Science of Victoria University and the graduates in Arts of the University who at the time of graduation were enrolled in Victoria College; five members shall be elected by the graduates in Arts and Science of Trinity College and the graduates in Arts of the University who at the time of graduation were enrolled in Trinity College; four members shall be elected by the graduates in Medicine; two members shall be elected by the graduates in Applied Science and Engineering; two members shall be elected by the graduates in Law; two members shall be elected by the graduates in Agriculture; and four members shall be elected by such persons as hold certificates as principals of collegiate institutes or high schools or assistants therein, and are actually engaged in teaching in a collegiate institute or a high school;

- (e) A university hereafter federated with the University shall be entitled to be represented on the Senate in the proportion of one representative for every one hundred graduates in Arts, and for any fraction of one hundred over one-half the federated university shall be entitled to one additional representative; but in no case shall the number of such representatives exceed five; Universities hereafter federated, representation of.
- (f) If and when any new faculty is established in the University, provision may be made by the Senate, subject to confirmation by the Board, for the representation on the Senate of the graduates in such faculty; 6 Edw. VII. c. 55, s. 47 (2-6). Faculties hereafter established.

42. Members of the teaching staff of the University, of University College, of the federated universities, and of the federated and affiliated colleges, shall not be eligible for election by any of the graduate bodies. 6 Edw. VII. c. 55, s. 48. Members of teaching staffs not to be elected.

43. No person shall be eligible for election as Chancellor or for election or appointment as a member of the Senate unless he is a British subject and a resident of Ontario. 6 Edw. VII. c. 55, s. 49. Chancellor must be a British subject, resident in Ontario.

44. The tenure of office of the elected and the appointed members of the Senate shall be for four years, and until their respective successors are elected or appointed. 6 Edw. VII. c. 55, s. 50. Tenure of office of Senate.

45. If an elected or appointed member of the Senate resigns, goes to reside out of Ontario, becomes insane or incapable of acting, or becomes a member of the teaching staff of any of the bodies mentioned in section 42, not being Vacancies in Senate.

the body which he has been appointed to represent, his seat shall *ipso facto* become vacant, and a declaration of the existence of any vacancy entered upon the minutes of the Senate shall be conclusive evidence thereof. 6 Edw. VII. c. 55, s. 51.

Filling vacancies in Senate.

46. If a vacancy occurs from any cause it shall be filled, in the case of an appointed member, by the body possessing the power of appointment, and in the case of a member elected by the graduates or by any class of graduates or by the principals of collegiate institutes and high schools and assistants therein, by the Senate, and the person appointed to fill the vacancy shall hold office for the remainder of the term of office of the member whose seat has become vacant. 6 Edw. VII. c. 55, s. 52.

Disputes as to election or right to sit.

47. If any question arises touching the election of the Chancellor or of any elective member of the Senate or the right of any person to be or sit or act as Chancellor or as a member of the Senate, the same shall not be raised or determined in or by any action or proceeding in any court, but shall be determined by the Senate, whose decision shall be final. 6 Edw. VII. c. 55, s. 53.

Powers and duties of Senate.

48. In addition to such others as are expressly mentioned in this Act, the powers and duties of the Senate shall be to:

Regulating proceedings.

(a) provide for the regulation and conduct of its proceedings, including the determining of the quorum necessary for the transaction of business;

Degrees.

(b) provide for the granting of and grant degrees, including honorary degrees and certificates of proficiency, except in theology;

Exhibitions, etc.

(c) provide for the establishment of exhibitions, scholarships and prizes;

Affiliation of colleges.

(d) provide for the affiliation with the University of any college established in Canada for the promotion of Art or Science, or for instruction in Law, Medicine, Engineering, Agriculture or any other useful branch of learning, and for the dissolution of such affiliation, or of any existing affiliation, or the modification or alteration of the terms thereof;

Cancellation or suspending degrees.

(e) provide for the cancellation, recall and suspension of the degree, whether heretofore or hereafter granted or conferred, of any graduate of the University heretofore or hereafter convicted in Ontario or elsewhere of an offence which, if committed in Canada, would be an indictable offence, or heretofore or hereafter guilty of any infamous or disgraceful conduct or of conduct unbecoming

a graduate of the University; for erasing the name of such graduate from the roll or register of graduates and for requiring the surrender for cancellation of the diploma, certificate or other instrument evidencing the right of such graduate to the degree of which he shall have been deprived under the authority of any such statute; and for providing the mode of inquiring into and determining as to the guilt of such graduate, and the procedure generally in respect of any such matter;

- (i) For the purpose of making such inquiry the Senate and the committees thereof shall have all the powers which by *The Public Inquiries Act* may be conferred upon commissioners appointed under the provisions of that Act. Rev. Stat. c. 18.
- (f) provide for the establishment of any faculty, department, chair or course of instruction in the University; Establishment of faculties, departments, etc.
- (g) provide for the establishment of any department, chair or course of instruction in University College in any subject except theology; Department's, etc., in University College.
- (h) appoint scrutineers for the counting of the votes for Chancellor and for elective members of the Senate; Scrutineers at elections.
- (i) consider and determine on the report of the respective faculty councils as to the courses of study in all the faculties; Considering reports of faculty councils.
- (j) consider and determine as to all courses of study to which paragraph (i) does not apply; Courses of study.
- (k) consider and determine on the report of the respective faculty councils as to the appointment of examiners, and the conduct and results of the examinations in all the faculties; Examiners and Examinations.
- (l) provide for the appointment of the examiners for and for the conduct of all University examinations other than those in the faculties of the University and for determining the results of such examinations; University examiners and examinations.
- (m) hear and determine appeals from decisions of the faculty councils upon applications and memorials by students and others; Appeals from faculty councils.
- (n) consider all such matters as shall be reported to it by the Council of any faculty, and communicate its opinion or action thereon to the Council; Reports from faculty councils.

Representation
of new facul-
ties on Senate.

- (o) provide for the representation on the Senate of any faculty hereafter established in the University, and of the graduates in such faculty, if, in the opinion of the Senate, provision should be made for separate representation of such graduates;

Calendars.

- (p) provide for the preparation and publication of the Calendars, which shall include those of University College and the federated universities, or such of them as desire that their calendars shall be inserted therein;

Library and
librarian.

- (q) make rules and regulations for the management and conduct of the Library, and prescribe the duties of the Librarian;

Changing com-
position of
Senate.

- (r) make such changes in the composition of the Senate as may be deemed expedient;

Recommendations to Board.

- (s) make such recommendations to the Board as may be deemed proper for promoting the interests of the University and University College, or for carrying out the objects and provisions of this Act. 6 Edw. VII. c. 55, s. 54.

Rights of feder-
ated universi-
ties as to Senate
representation
preserved.

49.—(1) Nothing in section 48 shall authorize the Senate to make any change in its composition which affects the rights of representation thereon of a federated university or the faculty of Arts thereof, or of a federated college, or of the graduates of a federated university, unless the same is assented to by the federated university or college affected by the change.

Senate may
take initiative
in changing
courses of
study.

(2) Nothing in this Act shall prevent the Senate from taking the initiative in determining as to any course of study or any change therein, but before passing any statute providing therefor the Senate shall refer to the appropriate faculty council the proposition under consideration for inquiry and report thereon. 6 Edw. VII. c. 55, s. 55.

Statutes of
Senate as to
certain matters
to be subject
to approval of
Board.

50. A certified copy of every statute or other enactment of the Senate providing for any of the matters or things mentioned in section 48 and therein numbered (c), (d), (e), (f), (g), (i), (j), (o), (q) and (r) shall within ten days after the passing thereof, be transmitted to the Board, and no such statute or enactment shall have force or effect until it has been approved by the Board. 6 Edw. VII. c. 55, s. 56.

CONVOCATION.

Convocation, —
how composed.

51. Convocation shall consist of all the graduates of the University and of the federated universities. 6 Edw. VII. c. 55, s. 57.

Powers of
convocation.

52. Convocation shall have power to

- (a) make regulations for governing its proceedings and the mode of conducting the same, and keeping records thereof; Regulations as to proceedings.
- (b) appoint a Clerk of Convocation, and prescribe his duties; Appointment and duties of clerk.
- (c) in case of the absence of the chancellor, elect a presiding officer for any meeting thereof; Presiding officer.
- (d) consider all questions affecting the interests and well-being of the University, and make representations thereon to the Board or to the Senate; Representations to Board and Senate.
- (e) require a fee to be paid by the members as a condition of their being placed on the register of members, and provide that no member whose name does not appear in such register shall be entitled to take any part in the proceedings of Convocation; Fee of members.
- (f) appoint an Executive Committee and confer upon it such powers as may seem meet. 6 Edw. VII. c. 55, s. 58. Executive Committee.

53. Convocation shall meet when convened by the Chancellor, and also at such times and places as may be fixed by Convocation by regulation, and in the absence of such regulation, as may be fixed by Convocation or by the Executive Committee thereof, and the Board shall provide a suitable place for its meetings. 6 Edw. VII. c. 55, s. 59. Meetings of convocation.

54. Notice of all meetings shall be given in such manner as may be prescribed by Convocation by regulation, and in the absence of such regulation as may be directed by Convocation or by the Executive Committee. 6 Edw. VII. c. 55, s. 60. Notice of meetings.

55. A true copy of the minutes of the proceedings of every meeting of Convocation shall be transmitted without unnecessary delay to the Board and to the Senate. 6 Edw. VII. c. 55, s. 61. Transmission of minutes.

56. All questions shall be decided by the vote of the majority of the members present. 6 Edw. VII. c. 55, s. 62. Majority vote to decide.

57. The Chairman or presiding officer shall be entitled to vote as a member of Convocation, and any question on which there is an equality of votes shall be deemed to be negatived. 6 Edw. VII. c. 55, s. 63. Chairman may vote as member.

58. No question shall be decided at any meeting unless at least twenty-five members are present. 6 Edw. VII. c. 55, s. 64. Quorum.

Special meet-
ings.—how
called.

59.—(1) If at least twenty-five members by writing under their hands, setting forth the objects thereof, require the Chairman to convene a special meeting of Convocation, the Chairman shall call the same without unnecessary delay. 6 Edw. VII. c. 55, s. 65.

Special meet-
ing to be con-
fined to object.

(2) No matter shall be considered at any such meeting except that for the consideration of which the meeting shall have been called. 6 Edw. VII. c. 55, s. 66.

Chancellor.

60. There shall be a Chancellor of the University, who shall be elected by the graduates thereof at the time and in the manner hereinafter mentioned. 6 Edw. VII. c. 55, s. 67.

Chancellor to
be chairman of
convocation.

61. The Chancellor shall be the Chairman of Convocation. 6 Edw. VII. c. 55, s. 68.

Degrees to be
conferred by
chancellor or
president.

62. All degrees shall be conferred by the Chancellor, or, in case of his absence, or of there being a vacancy in the office, by the President, or, in case of the absence of both of them, or of both offices being vacant, by a member of a faculty of the University, appointed for the purpose by the Senate. 6 Edw. VII. c. 55, s. 69.

Term of office.

63. The Chancellor shall hold office for four years, and until his successor is chosen. 6 Edw. VII. c. 55, s. 70.

Vacancy in
office of
chancellor.

64. If the Chancellor goes to reside out of Ontario or becomes insane or otherwise incapable of acting, he shall *ipso facto* vacate his office, and a declaration of the existence of such vacancy by the Senate entered upon its minutes shall be conclusive evidence thereof. 6 Edw. VII. c. 55, s. 71.

Filling
vacancy.

65. In the case of a vacancy in the office of Chancellor before the term of office for which he was elected has expired, the vacancy shall be filled by the appointment by the Senate at a special meeting called for the purpose, of which at least thirty days' notice shall be given, of a successor who shall hold office for the remainder of the term for which the Chancellor was elected. 6 Edw. VII. c. 55, s. 72.

FACULTY COUNCILS.

Council of
Faculty of
Arts.

Composition of
council.

66.—(1) There shall be a faculty council to be known as "The Council of the Faculty of Arts," which shall consist of the the President of the University, the Principal of University College, the President or other head of every federated university, the Dean of the Faculty of Arts, the teaching staff in the Faculty of Arts of the University, the teaching staff of University College, the teaching staff in the Faculty of Arts of Victoria College, of Trinity College and of every other university hereafter federated with the University, one professor in the department of

religious knowledge appointed by the theological faculty in each federated university now or hereafter federated, and one professor appointed by each of the federated colleges.

(2) The lecturers and instructors whose appointments are temporary, shall not for the purpose of this section be deemed to be members of the teaching staff.

(3) The lecturers and instructors who are members of the Council shall act as assessors only, and shall not be entitled to vote. 6 Edw. VII c. 55, s. 73, 74.

67.—(1) The powers and duties of the Council of the Faculty of Arts shall be to: Powers and duties of Arts council.

(a) make rules and regulations for governing its proceedings, including the determining of the quorum necessary for the transaction of business; 6 Edw. VII. c. 55, s. 75, *part*. Regulating procedure.

(b) subject to the provisions of this Act and to the approval of the Board make rules and regulations for the government, direction and management of the faculty and the affairs and business thereof; 3-4 Geo. V. c. 74, s. 6. Management of the faculty.

(c) fix and determine the courses of study in Arts, subject to the approval of the Senate; Courses of study.

(d) subject to the approval of and confirmation by the Senate, appoint the examiners for and conduct the examinations of the Arts courses, and determine the results of such examinations; Examiners and examinations.

(e) deal with and, subject to an appeal to the Senate, decide upon all applications and memorials by students or others in connection with the Faculty of Arts; Applications and memorials by students.

(f) consider and report to the Senate upon such matters affecting the Faculty of Arts as to the Council may seem meet. Report to Senate.

(2) For the purposes of this section "The Faculty of Arts" shall mean and include the teaching bodies and persons mentioned in section 66. 6 Edw. VII. c. 55, s. 75, *part*. "Faculty of Arts," meaning of.

68. There shall also be a Council for every other faculty of the University now or hereafter established, and a Council for University College. 6 Edw. VII. c. 55, s. 76. Other councils.

69. The Council of University College shall consist of the Principal and the teaching staff thereof and the Councils of the other faculties shall consist of the respective teaching staffs thereof, except in the case of the Council of the Faculty of Education, which shall consist of the teaching staff thereof Council of University College.

and the Superintendent of Education; but the Superintendent shall not vote on any question. 6 Edw. VII. c. 55, s. 77; 9 Edw. VII. c. 95, s. 1.

"Teaching staff," meaning of.

70. "Teaching staff" shall have the limited meaning given to it in the provisions of this Act relating to the Council of the Faculty of Arts, and the lecturers and instructors who are members of such Councils shall act as assessors only, and shall not be entitled to vote. 6 Edw. VII. c. 55, s. 78.

Powers and duties of councils other than of Arts.

71. The powers and duties of the Faculty Councils provided for by section 68 shall be to:

Regulating procedure.

(a) make rules and regulations for governing their proceedings, including the determining of the quorum necessary for the transaction of business;

Rules and regulations.

(b) subject to the provisions of this Act, and to the approval of the Board, make rules and regulations for the government, direction and management of their respective faculties and the affairs and business thereof;

Courses of study.

(c) fix and determine the courses of study in their respective faculties, subject to the approval of the Senate;

Examiners and examinations.

(d) subject to the approval of and confirmation by the Senate, appoint the examiners for and conduct the examinations of the courses in their respective faculties, and determine the results of such examinations;

Applications and memorials by students.

(e) deal with and, subject to an appeal to the Senate, decide upon all applications and memorials by students and others in connection with their respective faculties;

Report to Senate.

(f) consider and report to the Senate upon such matters affecting their respective faculties as to the Councils may seem meet. 6 Edw. VII. c. 55, s. 79.

Dean to be chairman of every faculty except Arts.

72. Except in the case of the Council of the Faculty of Arts, the Dean shall be Chairman of the Council of the Faculty of which he is Dean. 6 Edw. VII. c. 55, s. 80.

Council of University College, powers and duties.
Regulating procedure.

73. The powers and duties of the Council of University College shall be to:

(a) make rules and regulations for governing its proceedings, including the determining of the quorum necessary for the transaction of business;

Management of University College.

(b) subject to the provisions of this Act and to the approval of the Board, make rules and regulations for the government, direction and manage-

ment of University College and the affairs and business thereof;

- (c) appoint the examiners for and conduct the examinations of University College; Examiners and examinations.

- (d) consider and report to the Board and to the Senate or to either of them upon such matters affecting University College as may seem meet. 6 Edw. VII. c. 55, s. 81. Report to Board and Senate.

74. The Principal of University College shall be the Chairman of the Council thereof. 6 Edw. VII. c. 55, s. 82. Principal to be chairman of council.

75. The Librarian of the University shall be *ex officio* a member of all faculty councils and of the Council of University College. 6 Edw. VII. c. 55, s. 83. Librarian to be ex-officio member of councils.

CAPUT.

76. Unless and until otherwise provided by the Board, there shall be a Committee to be called the Caput, which shall be composed of the President of the University, who shall be the Chairman, the Principal of University College, the heads of the federated universities, the heads of the federated colleges and the Deans of the faculties of the University, and the presence of at least five of the members shall be necessary to constitute a quorum for the transaction of business. 6 Edw. VII. c. 55, s. 84. "Caput," how composed. Quorum.

77. The powers and duties of the Caput shall be to: Powers and duties.

- (a) fix and determine the time tables for the lectures and other instruction in the University which affect more than one faculty, or which affect University College, or a federated university or college; Time tables for lectures, etc.
- (b) authorize such lecturing and teaching in the University by others than the duly appointed members of the teaching staff thereof, and prevent all lecturing and teaching not so authorized; Authorizing lecturing and teaching.
- (c) exercise the powers as to discipline conferred upon it by sections 84 to 87; Disciplinary powers.
- (d) generally, deal with all such matters as may be assigned to it by the Board or by the Senate, if in the latter case such matters fall within the powers conferred upon the Senate by this Act. 6 Edw. VII. c. 55, s. 85. Matters assigned to caput by Board or Senate.

78. A copy of every general rule or regulation made by the Caput shall be transmitted to the Board, and no such general rule or regulation shall have any force or effect until it has been approved by the Board. 6 Edw. VII. c. 55, s. 86. Rules or regulations to be approved by Board.

Caput may advise president.

79. The Caput may advise the President in all matters affecting the academic interests of the University, but the powers of the President shall not be subject to its control. 6 Edw. VII. c. 55, s. 87.

PRESIDENT, PRINCIPAL, REGISTRARS.

President of University.

80.—(1) There shall be a President of the University who shall be the chief executive officer thereof, and shall have general supervision over and direction of the academic work of the University, and the teaching staff thereof, and the officers and servants employed in or in connection with such work, including the Registrar of the University, and shall also have such other powers and perform such other duties as from time to time may be conferred upon or assigned to him by the Board.

To be a member of all faculty councils.

(2) He shall be a member of all faculty councils, and Chairman of the Council of the Faculty of Arts.

Chairman of Senate.

(3) He shall be Chairman of the Senate.

To confer degrees in absence of chancellor.

(4) In the absence of the Chancellor, he shall confer all degrees.

To call meetings of Council of Faculty of Arts.

(5) He shall call meetings of the Council of the Faculty of Arts in accordance with the regulations of the Council, and also when requested to do so by at least five members thereof.

Suspending members of staff.

(6) He shall have power to suspend any member of the teaching staff of the University and University College and any officer and servant mentioned in subsection 1 and when he exercises that power he shall forthwith report his action to the Board, with a statement of his reasons therefor.

Recommendations to Board as to appointments, etc.

(7) He shall make recommendations to the Board as to all appointments to and all promotions in, and removals from the teaching staff of the University, and University College, including the Principal, and of the officers and servants mentioned in subsection 1.

Summoning meetings of faculty councils.

(8) He shall have the right to summon meetings of any faculty council, and of the Council of University College, whenever he may deem it necessary to do so, and to take the chair at any meeting thereof at which he may be present.

Convening joint meeting of councils.

(9) He may also, at his discretion, convene joint meetings of all the faculty Councils and the Council of University College or any two or more of them.

Annual report to Board.

(10) He shall report annually to the Board and to the Senate upon the progress and efficiency of the academic work of the University and University College, and as to their progress and requirements, and make such recommenda-

tions thereon as he may deem necessary, and he shall also report upon any matter which may be referred to him by the Board or by the Senate.

(11) The enumeration of the express powers mentioned in subsections 4 to 10, shall not limit the general powers conferred by subsection 1. 6 Edw. VII. c. 55, s. 88.

Mention of express powers not to limit general powers.

81.—(1) In case of his absence or illness the President may appoint a member of any faculty to act in his stead, and if there is a vacancy in the office of President, or if no appointment is made, the Board may appoint a member of any faculty to act *pro tempore*, and, failing an appointment, and until it is made, the Dean of the Faculty of Arts of the University shall act as President *pro tempore*. 6 Edw. VII. c. 55, s. 89.

President may appoint a substitute in case of absence or illness.

(2) The person acting pursuant to any such appointment shall have and may exercise all the powers and shall perform all the duties of President, but not those as to appointments, promotions and removals unless requested by the Board to do so. 6 Edw. VII. c. 55, s. 90.

Powers of President *pro tem*.

82.—(1) There shall be a principal of University College, who shall be the chief executive officer thereof, and shall have general supervision over and direction of the academic work of University College and the teaching staff thereof, and the officers and servants employed in or in connection with such work, including the Registrar of University College, and shall also have such other powers and perform such other duties as from time to time may be assigned to him by the Board.

Principal of University College.

(2) He shall be a member of the Council of the Faculty of Arts.

To be a member of Faculty of Arts.

(3) He shall call meetings of the Council of University College in accordance with the regulations of the Council, and when requested to do so by at least five members thereof, and also whenever he may see fit.

To call meetings of Council of University College.

(4) He shall have power to suspend any member of the teaching staff of University College, and any officer and servant mentioned in subsection 1, and when he exercises that power he shall forthwith report his action to the President with a statement of his reasons therefor.

May suspend members of staff of College.

(5) He shall report annually to the Board and to the Senate upon the progress and efficiency of the academic work of University College, and as to its progress and requirements, and make such recommendations thereon as he may deem necessary and he shall also report upon any matter which may be referred to him by the Board or by the Senate, and his reports shall, in all cases, be made through the President.

Annual report to Board and Senate.

Absence or
vacancy in
office of
Principal.

(6) In case of the absence or illness of the Principal he may appoint a member of the teaching staff of University College to act for him and failing an appointment and until it is made by him, or if there is a vacancy in the office of Principal the senior member of the teaching staff of University College shall act as Principal *pro tempore*. 6 Edw. VII. c. 55, s. 92.

Registrars for
University and
University
Colleges

83. There shall be a Registrar for the University and a Registrar for University College, and the offices shall not be held by the same person. 6 Edw. VII. c. 55, s. 93.

DISCIPLINE.

Disciplinary
jurisdiction of
governing
bodies.

84.—(1) The Council of University College, and the governing bodies of the federated universities and colleges, shall, respectively, have disciplinary jurisdiction over and entire responsibility for the conduct of their students in respect of all matters arising or occurring in or upon their respective college buildings and grounds, including residences. 6 Edw. VII. c. 55, s. 94.

Disciplinary
jurisdiction of
Faculty
councils.

(2) The councils of such of the faculties as shall have assigned for their separate use any building and grounds, including a residence, shall have disciplinary jurisdiction over and entire responsibility for the conduct of all students in their respective faculties in respect of all matters arising or occurring in or upon such building, or grounds. 6 Edw. VII. c. 55, s. 95.

Disciplinary
jurisdiction of
Caput.

(3) In all other cases, as respects all students to whatsoever college or faculty they belong, disciplinary jurisdiction shall be vested in the Caput, but the Caput may delegate its authority in any particular case or by general regulation to the council or other governing body of the university or college or faculty to which the student belongs. 6 Edw. VII. c. 55, s. 96.

Control of
College associa-
tions.

85. The Caput shall also have power and authority to determine by general regulation, or otherwise, to what college, faculty or other body the control of university associations belongs. 6 Edw. VII. c. 55, s. 97.

Deciding
questions of
jurisdiction.

86. If there is any question as to the proper body to exercise jurisdiction in any matter of discipline which may arise, the same shall be determined by the Caput, whose decision shall be final. 6 Edw. VII. c. 55, s. 98.

Power to im-
pose fines.

87. Disciplinary jurisdiction shall include the power to impose fines. 6 Edw. VII. c. 55, s. 99.

Power to abro-
gate or change
provisions as to
discipline.

88. As respects the conduct and discipline as students of the University of all students registered in the University to whatsoever college or faculty they belong and as respects

all students enrolled in University College the provisions of sections 84 to 87 may be abrogated or changed by the Board.
6 Edw. VII. c. 55, s. 100.

ELECTIONS.

89. The elective members of the Senate shall be elected and the appointed members thereof shall be appointed quadrennially. 6 Edw. VII. c. 55, s. 101 (2). Quadrennial elections of Senate.

90. The Registrar of the University shall, after the fifteenth day of June, and before the fifteenth day of August in every year in which an election is to take place, prepare an alphabetical list to be called "The Election Register," of the names and known addresses of all graduates who are entitled to vote at such election. 6 Edw. VII. c. 55, s. 102. "Election Register."

91. The election register shall be posted up in a conspicuous place in the office of the Registrar not later than the fifteenth day of August in every such year, and shall be open to inspection by any graduate entitled to vote, at all reasonable hours. 6 Edw. VII. c. 55, s. 103. Register to be posted up in offices of Registrar.

92. No person whose name does not appear in the election register shall be entitled to vote at the election. 6 Edw. VII. c. 55, s. 104. Persons not to vote unless names on register.

93. If from any cause the election register is not prepared at the time and in the manner provided by this Act, the Board shall make provision for the preparation of it, and all the provisions of this Act as to the election register, except those relating to time, shall apply to the election register so prepared. 6 Edw. VII. c. 55, s. 105. When election register is not duly prepared.

94. For the purposes of all elections at which graduates of a federated university are entitled to vote, the Registrar of such University shall on or before the fifteenth day of June in each year in which an election at which such graduates are entitled to vote is to be held, furnish to the Registrar of the University a list of the names of all graduates of such federated university who are entitled to vote, with their post office addresses as far as the same are known. 6 Edw. VII. c. 55, s. 106. List of graduates entitled to vote to be furnished to federated University.

95. The Department of Education shall, upon the application of the Registrar of the University, furnish him, on or before the first day of August in such year, with a list of all principals of and assistants in collegiate institutes and high schools who are actually engaged in teaching in a collegiate institute or high school, with their post office addresses as far as known. 6 Edw. VII. c. 55, s. 107. Education Department to furnish list of principals and assistants in High Schools.

Separate lists of different classes of persons entitled to vote.

96.—(1) The Registrar, in preparing the election register, shall make separate lists of (a) the graduates in Arts of the University enrolled in University College; (b) the graduates in Arts of each federated university, including graduates of the University who were at the time of graduation enrolled in the federated university; (c) the graduates in Medicine; (d) the graduates in Law; (e) the graduates in Applied Science and Engineering; (f) the graduates of each other faculty in the University, the graduates of which are entitled to elect representatives; (g) the graduates in Agriculture, and (h) the principals of and assistants in collegiate institutes and high schools actually engaged in teaching in a collegiate institute or high school.

Lists to be voters' lists.

(2) Such lists shall be the voters' lists for the election. 6 Edw. VII. c. 55, s. 108.

Complaints as to errors and omissions in lists.

97. If any person whose name appears or ought to appear in any election register complains in writing to the Registrar of the University, not later than ten clear days before the second Wednesday of the month of September in the year in which the election is to be held, that his name or that of any person which ought to appear therein has been omitted from such register or of any error in such name as it appears therein, or that the name of any person whose name ought not to be entered in the register appears therein, the Registrar shall forthwith examine into the complaint, and after such notice as he may deem necessary to any person whose name is sought to be stricken from such register, rectify the error, if any, therein. 6 Edw. VII. c. 55, s. 109.

Appeal from decision of Registrar.

98. The decision of the Registrar shall be subject to appeal to the President of the University. 6 Edw. VII. c. 55, s. 110.

Nomination of Chancellor.

99. No person shall be elected as Chancellor, or as a member of the Senate, unless he has been nominated as hereinafter mentioned, and every vote cast for any person not so nominated shall be void. 6 Edw. VII. c. 55, s. 111.

Nomination to be in writing.

100. The nominations shall be in writing by a nomination paper, which shall be signed by at least ten of the persons entitled to vote at the election. 6 Edw. VII. c. 55, s. 112.

Delivery of nomination paper to Registrar.

101. The nomination paper shall be delivered at the office of the Registrar, or, if sent by mail, shall be received there not later than the first Wednesday in September of the year in which the election is to take place, and if not so delivered or received shall be invalid, and shall not be acted upon. 6 Edw. VII. c. 55, s. 113.

Refusal to become a candidate.

102. Any person nominated for the office of Chancellor or as a member of the Senate may refuse to become a

candidate for the office for which he has been nominated and he shall be deemed not to have been nominated, and his name shall not be included in the list of candidates if he notifies the Registrar in writing of his refusal within four days, in which shall not be included a Sunday or other holiday, after the day upon which the time for nominations expired. 6 Edw. VII. c. 55, s. 114; 3-4 Geo. V. c. 74, s. 7.

103. If one person only is nominated for the office of Chancellor within the time fixed for that purpose he shall be elected to and be entitled to hold that office. 6 Edw. VII. c. 55, s. 115. Election by acclamation.

104. If only such number of persons as are required to be elected as members of the Senate are nominated within the time fixed for that purpose the persons so nominated shall be elected to and be entitled to hold the offices for which they were respectively nominated. 6 Edw. VII. c. 55, s. 116. Election of Senate by acclamation.

105. The Registrar shall report to the Senate at its next meeting the results of the election. 6 Edw. VII. c. 55, s. 117. Report of result of election to Senate.

106. If a poll is necessary the Registrar shall on or before the second Wednesday in such month of September send by mail to every graduate who, according to the election register, is entitled to vote at the election, and whose place of residence is shown in such register, or is known to the Registrar, a voting paper, Form 1, together with a list of the persons whose term of office is expiring, and of all persons who have been nominated. 6 Edw. VII. c. 55, s. 118. Voting papers to be sent to graduates.

107. The votes shall be given by closed voting papers, which shall be delivered, or, if sent by mail, shall be received at the office of the Registrar not earlier than the second Wednesday of such month of September, and not later than the first Wednesday of October following, both days inclusive, and every voting paper which has not been furnished by the Registrar, or which is not so delivered or received shall be invalid, and shall not be counted. 6 Edw. VII. c. 55, s. 119. Votes, how given.

108. Two persons appointed by the Senate for that purpose, shall be the scrutineers; but, if the Senate does not at least two weeks previous to the time fixed for the counting of the votes appoint the scrutineers, the President shall make the appointment. 6 Edw. VII. c. 55, s. 120. Scrutineers.

109.—(1) The voting papers, upon the next day after the time for receiving them has expired, shall be opened by the Registrar, and such persons as may be appointed by the President to assist in the opening thereof, in the presence of the President and of the scrutineers, who shall examine and count the votes and keep a record thereof in a book to be provided Opening and counting votes.

for that purpose, and the opening of the voting papers and the counting and recording of the votes shall be continued from day to day until completed.

(2) If the President is unable to be present, he shall appoint some person to act in his stead. 6 Edw. VII. c. 55, s. 121.

Who may be present at count.

110. Any person entitled to vote at the election may be present at the opening of the voting papers and the counting and recording of the votes. 6 Edw. VII. c. 55, s. 122.

When voter gives more votes than entitled to.

111. If more than one name appears upon a voting paper for Chancellor the vote shall be invalid, and shall not be counted, and if more names than the number to be elected appear on a voting paper for members of the Senate the votes shall be counted as votes for the persons whose names appear thereon in consecutive order, beginning with the first until the required number is reached, and all other votes thereon shall be invalid, and shall not be counted. 6 Edw. VII. c. 55, s. 123.

Declaration of result.

112. Upon the completion of the scrutiny and counting of the votes the President or other person acting in his stead and the scrutineers shall declare the result of the election, setting forth the number of votes cast for every person who has been nominated, and shall, without delay, report the same in writing under their hands to the Senate. 6 Edw. VII. c. 55, s. 124.

Senate to have casting vote.

113. In case of an equality of the votes given for two or more persons for Chancellor or for a member or members of the Senate, which leaves the election undecided, the Senate shall, at its next meeting, give the casting vote or votes necessary to decide it. 6 Edw. VII. c. 55, s. 125.

When election not held as provided.

114. If from any cause any election provided for by this Act is not held as hereinbefore provided, or if the full number of members which any body is entitled to elect is not elected, the Board shall make provision for holding the election or an election of the number of members which such body has failed to elect, as the case may be, and fix the dates for the nominations and the other proceedings for taking, counting and recording the votes thereat and declaring the result thereof, and such proceedings shall, as far as may be practicable, be conformable with those provided by this Act, 6 Edw. VII. c. 55, s. 126; 3-4 Geo. V. c. 74, s. 8.

COURSES OF INSTRUCTION, ATTENDANCE, FEES, ENROLLMENT.

Course of instruction in Arts.

115. The course of instruction in the Faculty of Arts shall be apportioned between the University and University College as follows:

(a) In the University instruction shall be given in Mathematics, Physics, Astronomy, Geology, Mineralogy, Chemistry, Biology, Physiology, History, Ethnology, Comparative Philology, Italian, Spanish, History of Philosophy, Psychology, Logic, Metaphysics, Education, Political Science, including Political Economy, Jurisprudence and Constitutional Law, and Constitutional History, and in such other subjects as, from time to time, may be determined by statute in that behalf. University courses.

(b) In University College instruction shall be given in Greek, Latin, Ancient History, English, French, German, Oriental Languages and Ethics, and in such other subjects as may, from time to time, be determined by statute in that behalf, but not in theology. 6 Edw. VII. c. 55, s. 127. University College Courses.

116. The subjects of instruction assigned by section 115 to the University and University College, respectively, shall not be transferred from the one to the other except by the direction of the Board, and no such direction shall be made unless with the consent of the federated universities. 6 Edw. VII. c. 55, s. 128. Consent of federated universities required to transfer of subjects.

117.—(1) The curriculum in Arts of the University shall include the subjects of Biblical Greek, Biblical Literature, Christian Ethics, Apologetics, the Evidences of Natural and Revealed Religion and Church History, but any provision for examination and instruction in them shall be left to the voluntary action of the federated universities and colleges, and provision shall be made by a system of options to prevent such subjects being made compulsory upon any candidate for a degree. University curriculum in Arts to include certain theological subjects

(2) The options shall be evenly distributed over each year of the general or pass course, and as far as practicable over each of the honour courses. 6 Edw. VII. c. 55, s. 129. Distribution of options over years of course.

118. The Board, with the consent of the federated universities, but not otherwise, may provide that attendance by a student enrolled in University College upon instruction in the subjects assigned to University College, or any of them, in any of the federated universities, shall be equivalent to attendance in University College, and that such attendance in University College by a student enrolled in a federated university shall be equivalent to attendance in such federated university, and may prescribe the terms and conditions upon which any such attendance upon instruction may take place. 6 Edw. VII. c. 55, s. 130. Attendance at lectures in federated universities.

119. Save as otherwise provided by the Board, a professor, lecturer, or teacher of University College may give instruction at or to the students enrolled in any federated uni- Interchange of lectures with federated universities.

versity in any of the subjects of instruction from time to time assigned to University College, and a professor, lecturer or teacher of any federated university may give instruction at or to the students enrolled in University College in any of such subjects, but the consent of the Principal of University College and of the federated university concerned and the approval of the Senate shall be first obtained. 6 Edw. VII. c. 55, s. 131.

Instruction in Arts to be free except as to certain fees.

120. Instruction in Arts in the University, except post-graduate instruction, shall be free to all regular matriculated students thereof who are enrolled in University College or in a federated university, and who enter their names with the Registrar of the University, but this provision shall not include exemption from laboratory fees, gymnasium fees, or fees for physical examination or instruction. 6 Edw. VII. c. 55, s. 132.

Minimum table of fees.

121. The table of fees, which on the 15th day of June, 1906, was in force for University College shall be the minimum table of fees for University College and for the Arts faculties of the federated universities, and no reduction shall be made in such minimum unless with the consent of the Board and of the federated universities. 6 Edw. VII. c. 55, s. 133.

Attendance on lectures as qualification to compete for exhibitions, etc.

122. Attendance upon instruction in University College or in St. Michael's College or in a federated university by a student enrolled therein shall entitle such student to present himself for any Arts examination in and to proceed to any degree in Arts of the University, and to compete for any exhibition, scholarship, prize or certificate of proficiency in Arts awarded or granted by the University in the same way and to the same extent as if he had attended upon such instruction in the University. 6 Edw. VII. c. 55, s. 134; 3-4 Geo. V. c. 74, s. 9.

Federated colleges.

123. If and as far as may be sanctioned by the Senate and approved by the Board, the next preceding section shall apply to attendance by a student of a federated or affiliated college upon instruction therein. 6 Edw. VII. c. 55, s. 135.

University students in Arts, enrolment of.

124.—(1) All students proceeding to a degree in Arts in the University, unless in cases for which special provision is made to the contrary by statute of the Senate, shall be enrolled in University College or in St. Michael's College or in a federated university. 6 Edw. VII. c. 55, s. 136 (1); 3-4 Geo. V. c. 74, s. 10.

Registration of students.

(2) Subject to the statutes of the Senate, all students proceeding to a degree in any faculty of the University other than that of Arts unless in cases for which special provision is made to the contrary by statute of the Senate, shall be registered in the University and receive their instruction

therein, except in the subjects in which by or under the authority of clause (b) of section 115 instruction is or may be provided for in University College, as to which it shall be sufficient if being a student enrolled in University College or in St. Michael's College or in a federated university he has received instruction therein. 6 Edw. VII. c. 55, s. 136 (2).

(3) All occasional and graduate students shall also be registered in the University. 6 Edw. VII. c. 55, s. 136 (3).

Occasional and graduate students.

125. Persons who have not received their instruction in the University, or in University College, or in a federated university or college, or in an affiliated college, may be admitted as candidates for examination for standing or for any degree, honour, scholarship or certificate of proficiency authorized to be granted or conferred by the University on such conditions as the Senate may, from time to time, determine. 6 Edw. VII. c. 55, s. 137.

Admission of candidates not students of the University.

126.—(1) No student enrolled in University College or in a federated university or college or in an affiliated college shall be permitted to present himself for any university examination subsequent to that for matriculation without producing a certificate that he has complied with the requirements of such university or college affecting his admission to such examination.

Qualifications of admission to University examinations.

(2) A student enrolled in an affiliated college may, subject to subsection 1 and to any statute of the Senate, present himself for any University examination subsequent to that for matriculation leading to a degree in that branch of learning in which instruction is given in such college, but such student shall not be entitled, unless by special permission of the Senate, to present himself for any examination leading to a degree in Arts or in any other faculty of the University. 6 Edw. VII. c. 55, s. 138.

Students enrolled in affiliated colleges.

127. Every graduate's diploma and student's certificate of standing, in addition to being signed by the proper authority of the University, shall indicate the federated university or college or affiliated college in which such student was enrolled at the time of his graduation or examination, and shall be signed by such professor, teacher or officer of the federated university or college or affiliated college as the governing body thereof may determine. 6 Edw. VII. c. 55, s. 139.

Diplomas, Certificates, etc., to indicate students, University or College.

ANNUAL GRANTS.

128.—(1) For the purpose of making provision for the maintenance and support of the University and University College, there shall be paid to the Board out of the Consolidated Revenue Fund yearly and every year a sum equal to

Annual grant to University of portion of revenue from succession duties.

fifty per centum of the average yearly gross receipts of the Province from succession duties.

How payable.

(2) Such annual sums shall be paid in equal half-yearly instalments on the first day of July and the first day of January in each year, and the average yearly gross receipts from succession duties shall be determined by and be based upon the gross receipts from such duties of the three years ended on the 31st day of December next preceding the day on which the first instalment of the year is to be paid.

When amount of grant is in excess of annual expenditure.

(3) If in any year the amount payable to the Board under the provisions of subsections 1 and 2 exceeds the amount of the estimated expenditure for the maintenance and support of the University and University College for the academic year in respect of which such amount is payable, the Lieutenant-Governor in Council may direct that the excess shall be added to the permanent endowment of the University and University College, or set apart by the Board as a contingent fund to provide for the event of the amount payable to the Board being in any future year or years insufficient to defray the cost of such maintenance and support; or that the same may be applied in expenditures on capital account; or be applied or dealt with wholly or in part in each or any of such ways; and may direct that, except in so far as such excess is not directed to be so applied or dealt with, the same shall not be paid to the Board and in every such case the sum which would otherwise be payable to the Board shall be reduced accordingly. 6 Edw. VII. c. 55, s. 140.

TRINITY COLLEGE.

Rights of Trinity College under federation agreement.

129.—(1) Nothing in this Act shall impair or prejudicially affect the rights of Trinity College under those provisions of the agreement made between the Trustees of the University of Toronto and Trinity College bearing the date the twenty-fifth day of August, 1903, which are set out in Schedule B, but such provisions shall continue binding on the University.

Arrangements for removal of Trinity College to Queen's Park.

(2) The Board may make such arrangement as it may deem expedient for facilitating the removal of Trinity College to Queen's Park, and to that end may agree to such modifications and alterations of the terms of such agreement, and may agree to such additional or substituted terms, financial or otherwise, as to the Board may seem meet, but no such agreement shall have any force or effect until approved by the Lieutenant-Governor in Council, and when so approved it shall have the same force and effect as if the terms thereof had been embodied in this Act.

Loan to Trinity may be guaranteed by Province.

(3) In the event of its being necessary in order to carry out any agreement entered into under the provisions of subsection 2, that to enable Trinity College to remove its seat to a site on the University land in or near

Queen's Park and to erect new buildings thereon a loan to be raised by Trinity College should be guaranteed by the Province the Lieutenant-Governor in Council for and in the name of the Province may guarantee the repayment of the loan in such form and upon and subject to such conditions and stipulations as to the nature and sufficiency of the security to be given for the loan, the safeguards which may be deemed necessary to protect the Province against loss and to ensure the repayment of principal and interest as the same become due, and otherwise as to the Lieutenant-Governor in Council may seem meet.

(4) Trinity College may enter into any agreement which it may deem necessary for carrying out the purpose mentioned in subsection 2, and may make and execute all agreements, deeds and other instruments deemed necessary to carry into effect the provisions of any such agreement, Trinity College authorized to enter into agreement as to removal.

(5) Trinity College may also borrow upon the security of its property, real and personal, or any part thereof, such sum of money as may be deemed requisite in order to carry out such removal, and the terms of any agreement so entered into, and may execute such deeds, bonds, debentures and other instruments necessary for the purposes of such security, and the money so borrowed may be repayable at such times and in such manner and bear such rate of interest as to Trinity College may seem meet. 6 Edw. VII. c. 55, ss. 141 and 142. Borrowing powers of Trinity College.

DEVONSHIRE PLACE.

130.—(1) The Board may stop up and close the highway in the City of Toronto called Devonshire Place, and if and when a statute for that purpose is passed by the Board and registered as hereinafter mentioned, the said highway shall be stopped up and closed and shall cease to be a highway, and the soil and freehold thereof shall be vested in the Board for the use of the University and University College. Board may close Devonshire Place.

(2) The Board shall make to the owners and occupiers of and all persons interested in any of the lots fronting or abutting on the highway compensation for the damage or injury occasioned to such lots by the closing of the highway, and the amount of such compensation shall be ascertained and determined in the manner provided for by paragraph (g) of section 32. Compensation to owners of adjoining lands.

(3) The statute may be registered in the Registry Office for the eastern division of the City of Toronto, and for the purpose of such registration a duplicate original of the statute shall be made out and certified under the hand of the Bursar and the seal of the Board and shall be registered without any further proof. 6 Edw. VII. c. 55, s. 143. Registration of statute closing Devonshire Place.

Section 144 of 6 Edw. VII. c. 55 is not included in the consolidation, but is not repealed.

FEDERATED COLLEGES BECOMING COLLEGES OF THE UNIVERSITY.

When federated college may become a college of the University.

131. If where a college federated with the University has established or hereafter establishes a faculty of Arts in which instruction in the subjects of the course of study in Arts not being University subjects is provided and a statute of the Board has been or shall be passed declaring that it has so done, such college, so long as it maintains such faculty to the satisfaction of the Board, shall be known as and may be called a college of the University, and the teaching staff in such faculty shall have the same representation in the Council of the faculty of Arts as is by section 66 given to the teaching staffs of the federated universities, and the regular matriculated students of such college who are enrolled therein and enter their names with the Registrar of the University shall be entitled to the privileges which are by section 120 conferred upon the students mentioned therein. 6 Edw. VII. c. 55, s. 145.

SCHEDULE A.

FORM 1.

(Section 106.)

FORM OF VOTING PAPER.

UNIVERSITY OF TORONTO ELECTION. 19 .

I, *the undersigned* resident at *the house of* in the county of *the county of* do hereby declare:

(1) That the signature subscribed hereunto is of my proper hand-writing.

(2) That I vote for the following person as Chancellor of the University of Toronto, viz., *the name of the person* of *the name of the person* in the *the name of the person* of

(3) That I vote for the following persons as members of the Senate of the University of Toronto, viz., *the name of the person* of *the name of the person* in the *the name of the person* of *the name of the person* of etc., etc.

(4) That I have not for the purpose of this election signed any other voting paper as a graduate of the Faculty of Arts (or of Medicine, or of Law, or of Applied Science and Engineering (or as the case may be) or as a Principal of or Assistant in a Collegiate Institute, or a High School, as the case may be).

(5) That this voting paper was signed by me on the day of the date thereof.

(6) That I vote in my right as graduate of *the name of the person* University (or Principal of, or Assistant in a Collegiate Institute or a High School, as the case may be).

(7) (In the case of a Principal of, or Assistant in a Collegiate Institute or in a High School) That I am now actually engaged in teaching in a Collegiate Institute (or in a High School, as the case may be) viz., in the *the name of the person* at

Witness my hand this

day of 19 .

A. B.

SCHEDULE B.

(Section 129.)

Provisions of the agreement between the Trustees of the University of Toronto and Trinity College which are not to be affected by the Act.

"The parties of the second part shall be entitled to have lectures in the University subjects as defined by *The University Act, 1901*, delivered by the professors and other instructors of the University of Toronto at Trinity College in all subjects of the general or pass course, and as far as practicable in all subjects of the several honour courses, but it is hereby declared that it is not intended that there shall be any duplication of lectures or other instruction for the purposes of which scientific apparatus or other means of demonstration are required which are not provided by Trinity College, and which cannot be conveniently taken from the University buildings to Trinity College.

"All arrangements for such lectures, including the time table of lectures and the personnel of lecturers, shall be made in such manner as to afford to the students enrolled at Trinity College the same advantages in regard to the University lectures as are afforded to the students of the other Arts colleges, and the said arrangements shall be made in each year by the President of the University of Toronto and the Provost of Trinity College, and, in the event of their being unable to agree on any matter, the same shall be forthwith referred for final decision to such person as they may designate in writing under their hands, and, in the event of the President and the Provost being unable to agree upon such referee within one week after such disagreement on any matter as aforesaid, such referee shall be appointed by the Minister of Education, and a decision in writing of such referee, by whomsoever chosen, shall be final.

"The expenses connected with the duplication of lectures as aforesaid shall be assumed by the Government as a permanent charge on the provincial revenues in consideration of the suspension by Trinity College of its degree conferring powers, and of its surrender to the University of Toronto of all fees in connection with degrees other than those of Theology.

"A site to be agreed on between the said parties hereto in or near the Queen's Park, in the City of Toronto, on the lands vested in the parties of the first part, shall be reserved for the parties of the second part, on which they may erect at their own expense a building for the use of the students of Trinity College while attending lectures in the University buildings.

"Such site shall be occupied by the parties of the second part free of ground rent and all other charges so long as the federation of the universities continue, but, in the event of the withdrawal of the parties of the second part from federation the said building shall be purchased from the said parties of the second part by the said parties of the first part at a valuation to be determined by the arbitration of two indifferent persons to be appointed, one by each of the parties hereto, their successors or assigns, and this provision shall be deemed to be and shall be a submission under *The Arbitration Act*.

"Until the erection of such building students from Trinity College attending University lectures shall be allowed the use of some suitable rooms in one of the University buildings.

"Subsections 1 and 2 of section 43 of the said Act are hereby declared to be incorporated in and to form part of this agreement.

"The Senate of the University of Toronto shall enact such statutes as may be necessary to enable the University of Toronto to confer on undergraduates and graduates of Trinity College the degrees provided for by subsection 2 of section 3 of *The University Act, 1901*, which are now conferred by Trinity University.

"The examination for the said degrees shall be conducted by the University of Toronto through examiners nominated by the parties of the second part, and the said degrees shall be conferred by the University of Toronto upon the report of the said examiners.

"All students of Trinity Medical College who have not matriculated at the date of the issue of the proclamation of the federation of the two universities shall be allowed two years from that date to matriculate in the University of Trinity College under the regulations in force at the date of federation."

6 Edw. VII. c. 55, Sched. 2.

CHAPTER 280.

An Act respecting Upper Canada College.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Upper Canada College* Short title Act. 63 V. c. 55, s. 1.

2. In this Act:—

(a) "Board" shall mean Board of Governors of Interpretation. Upper Canada College.

(b) "College" shall mean Upper Canada College.

BOARD OF GOVERNORS AND CONSTITUTION.

3. Upper Canada College and the property, revenue, Board of Governors. business and affairs thereof shall continue to be under the government, management, conduct and control of a Board of seventeen Governors, to be elected or appointed as herein-after mentioned, who shall continue to be a body corporate by the name of Upper Canada College. 63 V. c. 55, s. 3.

4.—(1) The Board shall be constituted as follows: Board, how constituted.

(a) Six members *ex-officio*:

(1) The Chief Justice of Ontario.

(2) The Honourable the Minister of Education of Ontario.

(3) The Treasurer of the Law Society of Upper Canada.

(4) The Chancellor of the University of Toronto.

(5) The President of the Board of Trade of the City of Toronto.

(6) The President of the Upper Canada College Old Boys' Association.

(b) Eleven other members,

eight of whom shall be appointed by the Board and three elected by the Upper Canada College Old Boys' Association.

Term of office
of appointed
members.

(2) The members of the Board in office at the time of the passing of this Act shall hold office for the remainder of the respective terms for which they were appointed or elected and until their successors are chosen.

Retirement,
annually, of
two appointed
members.

(3) Of the eight members appointed by the Board two shall retire annually on the first day of January in each year but shall remain in office until their successors are chosen.

Vacancies.

(4) The vacancies occasioned by the two members retiring annually and every other vacancy occurring at any time in the eight memberships shall be filled by the Board by appointment.

Retirement
of elected
members.

(5) The remaining three of the eleven members shall be elected by the Upper Canada College Old Boys' Association and shall hold office for three years from the date of their election, and their successors shall be elected by the Upper Canada College Old Boys' Association or by such committee thereof as the by-laws or rules of the Association provide for every three years.

Vacancies.

(6) Any vacancy occurring during any such period of three years in the representatives of the Association shall be filled by the Association or Committee by the election of another member or members in like manner.

By-laws, as to
elections.

(7) The mode of election of the Governors to be elected by the Association and the qualifications of electors and of such Governors shall be fixed by by-law of the Association.

Re-election.

(8) The retiring members of the Board shall be eligible for re-appointment or re-election. 63 V. c. 55, s. 7. *Amended.*

Additional
member.

(9) If and while the same person fills the offices of Chief Justice of Ontario and Chancellor of the University of Toronto the President of the High Court Division of the Supreme Court of Ontario shall be a member of the Board. 3-4 Geo. V. c. 18, s. 45, *part.*

Declaring seat
vacant for
absence.

5. In the event of the removal from Ontario, or absence without leave for six successive months of any member of the Board, other than an *ex-officio* member, from the meetings of the Board the Board may by a resolution passed by a two-thirds vote of the members present at a meeting duly called for that purpose declare the seat of such member to be vacant. 63 V. c. 55, s. 8.

First meeting
of Board.

6. At the first meeting of the Board in each year after the 1st day of January, or at a meeting thereafter specially called for the purpose, the Board shall elect one of themselves to be chairman and he shall hold office during that year and until his successor is elected. 63 V. c. 55, s. 9.

PROPERTY OF THE COLLEGE.

7. The property now vested in the College and the principal of all money invested, other than money appropriated to the contingent fund hereinafter mentioned, and all subscriptions received for the purpose of endowment shall not, except as hereinafter provided, be diminished or expended but shall remain as a permanent fund for the support and maintenance of the College and for the purposes of this Act. 63 V. c. 55, s. 4 (1). Permanent fund.

8. All property, real and personal, that may hereafter be granted, devised or bequeathed to the College shall be vested in the College in trust for the purposes and support of the College subject to the provisions of this Act and to the terms of the grant, devise or bequest. 63 V. c. 55, s. 4 (4). Future property.

9. The income from the permanent fund and from the investments made by the College, the fees received for tuition and maintenance, the rents, issues and profits and interest or dividends from all property held for the benefit of the College, except property touching which it has been otherwise ordered by the donors, and all contributions received by the College for the purpose of being applied towards the maintenance of the College shall form the income fund of the College, and shall be at the disposal of the Board for the purposes of the College; and the Board may in its discretion from time to time appropriate any surplus for the purposes of creating a contingent fund or may add the same to the permanent fund of the College. 63 V. c. 55, s. 4 (5). Income fund.

Contingent fund.

10.—(1) All property now vested in or which shall be hereafter in any way acquired by or vested in the College shall be exempt from taxation in the same manner and to the same extent as property vested in the Crown for the public uses of Ontario. Exemption from taxation of property held by College.

(2) Such exemption shall also apply to any such property when occupied or used by the Principal or any master or other instructor of the College or by any other person *bona fide* in connection with the College. 1 Edw. VII. c. 42, s. 1, *part*. Property used by officers of College.

11. The real property vested in the College shall not be liable to be entered upon, used or taken by any municipal or other corporation or by any person possessing the right of taking land compulsorily for any purpose; and no power to expropriate real property hereafter conferred shall extend to such real property unless in the Act conferring the power it is made in express terms to apply thereto. 1 Edw. VII. c. 42, s. 1, *part*. Property not liable to expropriation

12. All real property now or hereafter vested in the College shall so far as the application thereto of any statute of Application of Statute of Limitation.

limitation is concerned be deemed to have been and to be real property vested in the Crown for the public uses of Ontario. 3-4 Geo. V. c. 18, s. 45, *part*.

POWERS OF BOARD AS TO EXPENDITURE, MORTGAGE, SALE, ETC.

Expenditure
for purchase
of land on
15th Oct.,
1900, vali-
dated.

13. The expenditure by the Board of part of the permanent fund of the College in the purchase of 22, 51-100 acres of land adjoining the land owned by the College on the 15th day of November, 1900, is declared to have been a valid expenditure of the money of the permanent fund for that purpose. 3-4 Geo. V. c. 18, s. 45, *part*.

Use of part
of perman-
ent fund.

14. The Board may from time to time temporarily use money, not exceeding in the aggregate \$30,000, of the permanent fund of the College for any purpose in connection with the maintenance or administration of the College, and may raise such money by pledge or mortgage of any securities or of the land of the College or any part thereof. 3-4 Geo. V. c. 18, s. 45, *part*.

Money may
be raised
temporarily
on mortgage.

15. The Board may raise money temporarily upon mortgage or charge of the land of the College or any part thereof pending sale for the purpose of acquiring other land and establishing the College elsewhere as hereinafter mentioned. 3-4 Geo. V. c. 18, s. 45, *part*.

Power to
sell and
dispose of

16. With the consent of the Lieutenant-Governor in Council the Board may from time to time sell and dispose of the land of the College or any part thereof. 3-4 Geo. V. c. 18, s. 45, *part*.

Change of
site author-
ized.

17. If such sale or sales of land be with the object of or shall necessitate the establishment and continuance of the College elsewhere in Ontario than upon its present site the proceeds of the sale shall be applied for that purpose so far as may be necessary, and all money not required for that purpose shall form part of the permanent fund of the College. 3-4 Geo. V. c. 18, s. 45, *part*.

OTHER POWERS.

Specific
powers of
Governors.

18. Without limiting the powers hereinbefore conferred the Board shall have power to

- (a) manage the endowment and permanent fund and all other property of the College but, except as aforesaid not to alienate or encumber the same or any part thereof, except the contingent fund and moveable property which may from time to time be disposed of by the Board as may be deemed best;

- (b) invest the endowment and permanent fund and all money which shall or may come into its hands for the purposes of the College, but subject to the limitations of any trust as to the same, upon mortgages of freehold or leasehold land, the debentures, bonds, stocks or other securities of any government or of any municipal corporation or school section in Canada;
- (c) lease any part of the property not required for the business or accommodation of the College for any term not exceeding forty-two years with provision for renewals, and for payment for buildings or improvements;
- (d) receive and invest, subject to the directions of the grant or bequest, all money granted or bequeathed for the purposes of the College and provide for free tuition and maintenance in the College of pupils nominated by persons subscribing to the endowment fund, and found master-ships, exhibitions, scholarships or prizes to be named as the donors may direct and the Board may approve;
- (e) authorize such permanent improvements, alterations or additions to the buildings of the College or the erection and equipment of such new buildings as may be desired, and the purchase of land for the erection of new buildings, and direct that the cost thereof shall be paid out of the permanent fund, but they shall not impair the permanent fund of the College without the consent of the Lieutenant-Governor in Council, or to an extent that would interfere with the payment of any charges in respect thereof;
- (f) borrow money for the purposes mentioned in clause (e) to the extent of \$25,000 upon the security of subscriptions of money to or for the benefit of the College which are made payable by the terms of the subscriptions at some future date or by instalments. 63 V. c. 55, s. 10.

APPOINTMENT OF OFFICERS AND GENERAL POWERS.

19. The Board shall appoint the Principal, Masters, Bur-
sar and other officers and servants of the College, and shall have the control, management and government of the College and, subject to the provisions of this Act, also of all its properties, endowment, funds, assets, income and revenues, and may pass by-laws, rules and regulations for the working and management of the College including the establishment of master-ships, exhibitions, scholarships and prizes and fixing

Appointment
of Principal,
Master, etc.,
and general
powers.

the salaries of the Principal, Masters, Bursar, officers and servants, and also as to all matters pertaining to the business, meetings and transactions of the Board, and may fix the quorum necessary for meetings of the Board, and may act by such committees as they may deem proper to appoint. 63 V. c. 55, s. 5.

GENERAL.

Execution of instruments.

20. Subject to the by-laws of the Board all conveyances, grants, leases, discharges or assignments of any property held by or for the College shall be made by the Board under its corporate seal which shall be attested by the signatures of the Chairman or some person thereto authorized by the Board and of the Bursar. 63 V. c. 55, s. 13.

Superannuation.

21. The Board may make regulations for the retirement and superannuation of any master, officer or servant of the College, and any gratuity or superannuation allowance may be paid out of a fund to be provided for that purpose or out of the income fund as the Board shall direct. 63 V. c. 55, s. 14.

Returns to Lieutenant-Governor in Council.

22. The Board, when required by the Lieutenant-Governor in Council, shall make returns of the property of the College, real and personal, and furnish reports as to the state of the College with such details and information as he may from time to time require. 63 V. c. 55, s. 15.

Regulations by Principal.

23. The Principal, subject to the approval of the Board, may make regulations for the direction of the Masters, officers and servants in regard to their duties and for the discipline and instruction of the pupils of the College, for the conduct of the school and the management of the school buildings and grounds. 63 V. c. 55, s. 11.

Wedd and Martland Superannuation not to be affected.

24. Nothing in this Act shall affect or interfere with the provisions of any Order in Council relating to the superannuation of William Wedd and John Martland, formerly masters, in force on the 5th day of May, 1894. 3-4 Geo. V. c. 18, s. 45, *part*.

CHAPTER 281.

An Act respecting The Agricultural College.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Agricultural College* Short title.
Act." 3-4 Geo. V. c. 76, s. 1.

2. "The Ontario Agricultural College and Experimental School of Agriculture continued.
Farm" is hereby continued. 3-4 Geo. V. c. 76, s. 2.

3. The College shall be furnished with such land and build- Appliances and equipment.
ings and with all such appliances, implements, tools and apparatus as may be necessary for theoretical and practical education in agriculture, horticulture and arboriculture; and the course of instruction therein shall be with reference to Nature of instruction.
the following subjects:

- (a) the theory and practice of agriculture;
- (b) the theory and practice of horticulture;
- (c) the theory and practice of arboriculture;
- (d) the elements of the various sciences, especially chemistry, theoretical and practical, applicable to agriculture and horticulture;
- (e) the technical English and mathematical branches requisite for an intelligent and successful performance of the business of agriculture and horticulture;
- (f) the anatomy, physiology and pathology of the ordinary farm animals with the characteristics of the different varieties of each kind; with the management thereof in the breeding, raising, fattening and marketing of each, and with a knowledge of the cheese and butter factory systems;
- (g) the principles of construction and skilful use of the different varieties of buildings, fences, drainage systems and other permanent improvements, machinery, implements, tools and appliances necessary in agricultural and horticultural pursuits; and

(h) such other subjects as will promote a knowledge of the theory and practice of agriculture, horticulture and arboriculture. 3-4 Geo. V. c. 76, s. 3.

Education.

Study and apprenticeship.

4.—(1) The education and instruction shall be theoretical and practical; the former shall be known as a course of study and the latter as a course of apprenticeship; and the hours of labour in the latter course shall be regulated by the President of the College, with the approval of the Minister of Agriculture.

Allowance for expenses—Dispensing with apprenticeship.

(2) For the encouragement of labour in the course of apprenticeship an allowance in part liquidation of expenses may be made, but the course of apprenticeship may be dispensed with if a satisfactory examination be previously passed in all the operations therein required. 3-4 Geo. V. c. 76, s. 4.

Nature of experiments.

5. Experiments with the different varieties of cereals, grasses and roots; of trees, plants, shrubs, flowers and fruits; with different modes of cultivation; with different manures; with the breeding, raising, and fattening of animals; with the products of the dairy, and with whatsoever else may be of practical benefit in adding to the knowledge of the facts, principles and laws of the science and art of agriculture, horticulture and arboriculture under the climatic conditions of Ontario shall be carried out on the experimental farm, and the modes of procedure and results published from time to time. 3-4 Geo. V. c. 76, s. 5.

Publication of procedure and results.

Rules, regulations and curriculum of the college.

6. The government of the College shall be under and according to such rules and regulations as the Lieutenant-Governor in Council may from time to time prescribe; and such rules and regulations shall provide for the standard and mode of admission, the course of study and apprenticeship in each course in which instruction is given, and may authorize diplomas, certificates of proficiency, scholarships or other rewards to be given, after examination, in any subjects; and may also impose reasonable fees for attendance. 3-4 Geo. V. c. 76, s. 6.

Appointments to be made by the Lieutenant-Governor in Council.

7. The Lieutenant-Governor in Council may appoint a president and such professors, instructors, officers, assistants and servants as may be deemed necessary for the efficient working of the College and the promotion of its usefulness, and may regulate and prescribe their respective duties. 3-4 Geo. V. c. 76, s. 7.

Appointment of Advisory Board.

8.—(1) Upon recommendation of the Minister of Agriculture the Lieutenant-Governor in Council may appoint an Advisory Board consisting of not more than seven members to advise and assist the Minister of Agriculture in the management of the College and Farm, and may prescribe its duties

and powers and the period for which the members shall continue in office.

(2) The Board shall be composed as follows: The Deputy Minister of Agriculture who shall act as chairman, the President of the College, and three graduates or associates of the College who are residents of Ontario and not members of the staff. Composition of.

(3) The Minister may recommend as additional members not more than two persons who are not graduates or associates of the College. Idem.

(4) The members of the Advisory Board shall be paid for attending the meetings of the Board an allowance not exceeding \$4 per day, and also their actual necessary travelling expenses in attending the meetings. Allowance for attending meetings. 3-4 Geo. V. c. 76, s. 8.

9. The sessions, terms and vacations shall be fixed by the Lieutenant-Governor in Council. Sessions, terms and vacations. 3-4 Geo. V. c. 76, s. 9.

10. The College is affiliated with the University of Toronto, subject to *The University Act*, to the extent of enabling the students of the college to obtain at the examinations of the university such rewards, honours, standing, scholarships, diplomas and degrees in agriculture as the university has authority to confer. Affiliation of the College with the University of Toronto. Rev. Stat. s. 279. 3-4 Geo. V. c. 76, s. 10.

11. In connection with the College there shall be a museum of agriculture and horticulture, together with the scientific and technical branches relating thereto, in order to afford aids to practical instruction and illustrations of the agricultural and horticultural products of Ontario; as well as a botanical and chemical laboratory to which vendors of seeds and artificial manures may send such seeds and manures in order that, after the proper inspection and tests, their purity and strength may be reported for the benefit and protection of the agricultural community. Museum and laboratory. 3-4 Geo. V. c. 76, s. 11.

12. The Lieutenant-Governor in Council on behalf of the Province may accept, hold and enjoy any gifts, bequests or devises of real or personal property or effects which any person may think fit to make for the purposes of the College, museum or laboratory. Gifts, bequests, etc., to college, museum or laboratory. 3-4 Geo. V. c. 76, s. 12.

13. The Lieutenant-Governor in Council may make such regulations as may be deemed expedient touching the conduct of the students, and their attendance on public worship in their respective churches or other places of religious worship and respecting their religious instruction by their respective ministers according to their respective forms of religious faith, and every facility shall be afforded for such purposes. Facilities for acquiring religious training. 3-4 Geo. V. c. 76, s. 13.

Orders in
Council to
be laid
before
Assembly.

14. Every Order in Council made under this Act shall be laid before the Assembly forthwith if the Assembly is then in session, and if not then in session then within fifteen days after the opening of the next session; and if the Assembly at such session, or if the session does not continue for three weeks after the Order is laid before the House then at the ensuing session of the Legislature, disapproves by resolution of the Order in Council the same, so far as so disapproved of, shall have no effect from the time of such resolution being passed. 3-4 Geo. V. c. 76, s. 14.

Reports and
returns to
the
Assembly.

15. Full reports of the progress of the College and Farm shall be annually returned and submitted to the Assembly, which reports shall, amongst other things, contain

- (a) a tabular statement with the name and residence of each student attending in each session of the year, together with the name, residence and occupation of his parent or guardian, the number of classes that each student attended, and his progress and efficiency therein;
- (b) a return of the names of the professors, instructors and assistants, with a summary of the instruction given by each;
- (c) a copy of the examination papers used in the sessional examinations, and the results thereof;
- (d) a summary of the operations in the various departments of the farm;
- (e) a clear and succinct account of the modes of procedure and results of the various experiments carried on during the year;
- (f) a detailed statement of the income and expenditure of the College and Farm for the year;
- (g) a copy of all rules and regulations made during the year by the Lieutenant-Governor in Council regarding the standard and mode of admission, the course of study and the course of apprenticeship;
- (h) a comparative statement showing the progress of the College and Farm from year to year. 3-4 Geo. V. c. 76, s. 15.

CHAPTER 282.

An Act respecting The Ontario Veterinary College.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Veterinary College Act*. Short title
9 Edw. VII. c. 96, s. 1.

2. The Ontario Veterinary College heretofore established in the City of Toronto and conducted by the Ontario Veterinary College, Limited, and to which certain powers were given by the former Agriculture and Arts Association, is continued as The Ontario Veterinary College under the direction of the Minister of Agriculture. 9 Edw. VII. c. 96, s. 2. Ontario Veterinary College. continued.

3. The College shall be furnished with all such appliances and equipment as may be necessary for theoretical and practical training in the science and art of veterinary medicine, and in such other branches of education as may be requisite for the intelligent and successful performance of the business of a veterinary surgeon. 9 Edw. VII. c. 96, s. 3. Appliances and equipment of College.

4. The Lieutenant-Governor in Council may appoint a Principal and such professors, lecturers and instructors as may be deemed necessary for giving instruction in the College and the promotion of its usefulness, and may pass by-laws regulating and prescribing their respective duties. 9 Edw. VII. c. 96, s. 4. Principal and officers.

5. The Lieutenant-Governor in Council may authorize the making of arrangements whereby instruction in any of the subjects prescribed to be taught in the College may be provided by the University of Toronto or by the Ontario Agricultural College or by any other College affiliated with the University of Toronto. 9 Edw. VII. c. 96, s. 5. Substitution of courses in Agricultural College, etc.

6. The government of the College shall be under and according to such rules and regulations as the Lieutenant-Governor in Council may from time to time prescribe, and such rules and regulations shall contain provisions for the standard and mode of admission, the course of study, the fees to be charged, the sessions, terms and vacations, and such provisions as may be deemed expedient touching the conduct of students. 9 Edw. VII. c. 96, s. 6. Government and control of College.

Rights and standing of graduates.

7. Every student upon the successful completion of the course of study, upon passing the prescribed examinations and upon satisfactory compliance with the rules and regulations of the College shall be admitted to the standing of a Veterinary Surgeon and shall have all the privileges and rights accorded by statute to a Veterinary Surgeon; and there shall be issued to every such student a diploma granting him the title, degree and standing of Veterinary Surgeon; and such diploma shall be attested by the signatures of the Principal of the College and the Minister of Agriculture. 9 Edw. VII. c. 96, s. 7.

Issue of duplicate diploma in certain cases.

8. The Lieutenant-Governor in Council may by order make provisions whereby in case of the loss or destruction of any diploma issued by the former Agriculture and Arts Association, the former Ontario Veterinary College, Limited, or by the Minister of Agriculture, a duplicate diploma may be issued to the person entitled to the same. 9 Edw. VII. c. 96, s. 8.

Accepting gifts, etc., on behalf of College.

9. The Lieutenant-Governor in Council on behalf of the Province may accept, hold and enjoy any gifts, bequests or devises of personal or real property or effects which any person or any government may think fit to make for the purpose of the College. 9 Edw. VII. c. 96, s. 9.

Advisory board.

10. The Lieutenant-Governor in Council may, if deemed advisable, appoint an Advisory Board to advise and assist the Minister of Agriculture in the management of the College, and may by Order in Council prescribe its duties and powers and the amounts to be allowed for the services and expenses of the members of such Board. 9 Edw. VII. c. 96, s. 10.

Affiliation with University of Toronto, continued.

11. The College is affiliated with the University of Toronto to the extent of enabling the students of the said College to obtain at the examination of the University such rewards, honours, standing, scholarships, diplomas and degrees in Veterinary Science as the University has authority to confer. 9 Edw. VII. c. 96, s. 11.

Annual report of Principal.

12. The Principal of the College shall at the close of each year present to the Minister of Agriculture a report upon the work of the College in such form as the Minister may approve, setting forth the staff, the course of instruction, the students in attendance, the examination results, the income and expenditure and such general information as shall show the work being done; and this report shall be laid before the Assembly within the first thirty days of the session next ensuing. 9 Edw. VII. c. 96, s. 12.

Power to purchase or lease lands, etc.

13. The Lieutenant-Governor in Council may purchase or acquire or lease such buildings and premises as may from

time to time be required for carrying on the work of the College. 9 Edw. VII. c. 96, s. 13.

14. The lease of the buildings and premises used by the College from one Andrew Smith to the Minister of Agriculture, as representing His late Majesty King Edward the Seventh, and bearing date the twenty-eighth day of July, one thousand nine hundred and eight, is hereby approved. 9 Edw. VII. c. 96, s. 14.

Lease from
Andrew Smith
approved.

15.—(1) No person or persons, association, company or organization other than is authorized under this Act shall, by advertisement or otherwise, use the name of the Ontario Veterinary College; and no person or persons, association, company or organization shall, by advertisement or otherwise, use any name similar or analogous to that of the Ontario Veterinary College without first receiving the consent of the Minister of Agriculture in writing.

Prohibition
against using
name of the
College.

(2) Any person violating the provisions of this section shall incur a penalty not exceeding \$50 and in default of payment thereof shall be liable to imprisonment for not less than thirty days. 9 Edw. VII. c. 96, s. 15.

Penalty.

CHAPTER 283.

An Act for the Establishment of Mining Schools.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Mining Schools Act*.

Interpretation
"Union
municipality."

2. In this Act "union municipality" shall mean a municipality composed of two or more townships. R.S.O. 1897, c. 303, s. 1.

By-laws for
establishment
of mining
schools.

3.—(1) The council of any city, town, village, township or union municipality may by by-law provide for the establishment within such city, town, village, township or union municipality, or elsewhere, of a mining school, and may by the by-law provide for the levying of a special annual rate upon the whole of the rateable property thereof for any term not less than ten nor more than thirty years for the establishment or maintenance of such school or both, or for the leasing of buildings or land, or for the purchase of land and erection of buildings, or for the purchase and maintenance of machinery, furnaces and scientific apparatus, and all other things necessary for the treatment of any ore or other mineral in Ontario, and of all the appliances necessary for the treatment of such ores or minerals by reduction, smelting and other works as well as all appliances, works, methods and systems necessary for the separation, amalgamation, manufacture or other treatment of the metals thereby produced, and for the maintenance of the necessary teaching staff.

Assent of
electors.

(2) No such by-law shall be finally passed until it has first received the assent of a majority of the electors of the municipality in the manner provided by *The Municipal Act* with respect to money by-laws. R.S.O. 1897, c. 303, s. 2.

Rev. Stat.
c. 192.Establishment
of schools in
portions of
municipalities.

4.—(1) In case a petition is presented from any township forming part of a union municipality to the council of such union municipality praying for the passing of a by-law for any or all of the purposes mentioned in the next preceding section such council shall submit a by-law for the assent of the electors of such township in accordance with the prayer of the petition.

Council to
pass by-law
on assent
of electors.

(2) Upon the assent of a majority of the electors of such township being obtained to the passing of the by-law, the

councils shall pass the same and levy and collect a special annual rate upon the whole of the rateable property within such township for any term of years not less than ten nor more than thirty years for any of the purposes in the next preceding section mentioned. R.S.O. 1897, c. 303, s. 3.

5.—(1) Subject to the assent of the electors being first obtained as provided by section 3, the council of any city, town, village, township or union municipality may pass a by-law providing for the granting of aid by way of bonus to any such school now or hereafter established either in any township forming part of such municipality or elsewhere. Aid to mining schools from municipalities.

(2) If debentures are issued for the bonus or for raising money to pay the same such debentures shall not be payable within any period less than ten years nor more than thirty years after the issue thereof. R.S.O. 1897, c. 303, s. 4. Issue of debentures—terms of.

6. The council of any county may by by-law passed by the votes of two-thirds of the whole number of members thereof grant aid to the extent of \$10,000 to any mining school now or hereafter established for any or all the purposes mentioned in section 3. R.S.O. 1897, c. 303, s. 5. Aid from counties.

7. Every school so established or aided shall be under the management and control of a board of trustees who shall be elected annually, one by each of the cities, towns, villages, townships or union municipalities granting such aid, and the trustees shall be a body corporate under the name of "The Board of Trustees of the Mining School of _____" and all the school land, buildings and property belonging thereto shall be vested in such corporation, and when any county council makes a grant such council shall be entitled to appoint one of the trustees of the board. R.S.O. 1897, c. 303, s. 6. Schools to be managed by board of trustees.

8. Every school so established shall be conducted in accordance with the regulations of the Department of Education, and every teacher or instructor employed therein shall, before entering upon his duties, obtain a certificate or permit from the Minister of Education. R.S.O. 1897, c. 303, s. 7. Schools to be subject to regulations of Education Department.

9. If any such school is established or aided by one municipality only or one portion of a municipality, such municipality or the township granting such aid shall elect three trustees for the purposes mentioned in section 7; and where two municipalities or two townships forming a part thereof grant such aid, each of such municipalities or of such townships shall elect two trustees. R.S.O. 1897, c. 303, s. 8. Number of trustees.

Where school abandoned or departmental regulations violated.

10.—(1) If at any time a school established under this Act is abandoned or if the trustees of any such school refuse or neglect to comply with a regulation of the Department of Education the Minister of Education may by an order in writing signed by himself authorize the council or councils granting aid to such school to cease to collect or levy the rates hereinbefore provided for, and may direct the council to cease to pay over to the trustees of such school any sums in the hands of the council payable to the board.

Levying of rates not affected.

(2) This section shall not affect in any way the levying of rates for the payment of debentures issued under the provisions of this Act. R.S.O. 1897, c. 303, s. 9. *Amended.*

Application of railway aid clauses of Municipal Act, Rev. Stat. c. 192.

11. Except where inconsistent with this Act the provisions of *The Municipal Act* with regard to granting aid by any municipality or portion of a municipality to a railway shall apply to the by-law which may be passed under this Act. R.S.O. 1897, c. 303, s. 10.

Election and powers of trustees.

12. The members of a board of trustees shall be elected in the manner provided for the election of municipal councillors within the municipality establishing such a school or granting such aid, and the trustees shall, in so far as the same are applicable with regard to the management and control of the Mining School, possess the same powers and be subject to the same provisions of law as public school trustees. R.S.O. 1897, c. 303, s. 11.

Act incorporated with Municipal Act.

13. Except where inconsistent therewith this Act shall be read and construed as if it formed part of *The Municipal Act* and shall apply to municipalities formed under section 24 of that Act. R.S.O. 1897, c. 303, s. 12.

CHAPTER 284.

An Act respecting the Ontario College of Art.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The College of Art Act*. 2 Geo. Short title.
V. c. 79, s. 1.

2. In this Act, *Interpreta-*

(a) "College" shall mean The Ontario College of Art; "College."

(b) "Council" shall mean the council of The Ontario "Council."
College of Art, constituted as hereinafter pro-
vided. 2 Geo. V. c. 79, s. 2.

3. There shall be established at the City of Toronto a Col- Establishment of
lege of Art to be known as The Ontario College of Art. of College.
2 Geo. V. c. 79, s. 3.

4. The purposes of the College shall be Objects.

(a) The training of students in the fine arts, including Training
drawing, painting, design, modelling and sculp- students
ture, and in all branches of the applied arts in in art.
the more artistic trades and manufactures; and,

(b) The training of teachers in the fine and applied arts. And
2 Geo. V. c. 79, s. 4. teachers.

5. The control and management of the College shall con- Council.
tinue to be vested in the Council which shall be a body cor-
porate by the name of the Council of The Ontario College of
Art. 2 Geo. V. c. 79, s. 5.

6. The Council shall consist of members to be appointed How com-
as follows:— posed.

(a) The Art Museum, The Ontario Society of Artists and Certain
the Canadian Art Club, The Canadian Manufac- bodies to
turers' Association and the Trades and Labour appoint two
Council of the City of Toronto shall each appoint members
two members; each.

(b) The Senate of the University of Toronto, The Muni- Certain
cipal Council of the City of Toronto, The Can- bodies to
adian National Exhibition, The Graphic Arts appoint one
member
each.

Society, The Toronto Society of Architects, The Ontario Association of Architects, the Applied Arts Society and the Toronto Camera Club shall each appoint one member; and

Five other members.

- (c) The persons so appointed shall appoint five other persons, none of whom shall be a member of any of the corporations or associations mentioned in clauses (a) and (b), but who are considered by the appointing body specially interested in art education. 2 Geo. V. c. 79, s. 6.

Term of office.

7. The members of the Council shall hold office for two years from the date of their appointment and until their successors are appointed. 2 Geo. V. c. 79, s. 7.

Vacancies in Council among members appointed under s. 6, clauses a, b.

8.—(1) If a vacancy occurs among the members appointed as provided under clauses (a) and (b) of section 6 it shall be filled by the corporation or association appointing the member whose seat has become vacant.

Among members appointed by them.

(2) If a vacancy occurs among the members appointed under clause (c) of section 6 it shall be filled by the Council from the class of persons mentioned in such clause.

Term of office of member filling vacancy.

(3) Any person appointed to fill a vacancy shall hold office for the remainder of the term for which the member whose seat he is appointed to fill was appointed.

Vacating seat for absence.

(4) If a member of the Council absents himself from three consecutive meetings without being authorized by resolution entered upon the minutes he shall *ipso facto* vacate his seat. 2 Geo. V. c. 79, s. 8.

Failure to appoint representatives.

9. If any of the corporations or associations whose representation is provided for in section 6 and in subsection 1 of section 8 does not avail itself of the provisions of those sections at its first meeting after notification by the Council, or if any such corporation or association ceases to exist, the members of the council then in office may elect other representatives of Art interests in their place and stead who are not members of the other corporations or associations whose representation is provided for in section 6. 2 Geo. V. c. 79, s. 9.

Meetings.

10. The Council shall meet at least four times in every year, and one of such meetings, to be called the annual meeting, shall be held in the month of June upon such date as may be fixed by the by-laws of the Council. 2 Geo. V. c. 79, s. 14.

Quorum.

11. Five members of the Council shall form a quorum. 2 Geo. V. c. 79, s. 15.

12. The Council shall elect at its annual meeting from among its members a Chairman, Vice-chairman and an Honorary Treasurer. 2 Geo. V. c. 79, s. 16. Officers.

13. The Chairman, or in his absence the Vice-chairman, shall preside at all meetings, and if neither the Chairman or Vice-chairman is present the members present shall choose a chairman of the meeting from among themselves. 2 Geo. V. c. 79, s. 17. Who to
preside.

14. The Council shall have the control and government of the College and shall appoint a principal and a secretary and the teachers, instructors, lecturers, officers, clerks and servants, and shall fix their remuneration and determine their duties. 2 Geo. V. c. 79, s. 18. Control of
college.

15. The Principal of the College shall be the chief executive officer and, subject to the regulations of the Council, shall control the organization and management of the College. 2 Geo. V. c. 79, s. 19. Principal
to be chief
executive
officer.

16. The Council by resolution, to be entered on the minutes, may authorize any corporation or association hereafter established in Ontario for Art purposes to appoint not more than two members of the Council to represent such corporation or association thereon, and the provisions of this Act as to members appointed under clauses (a) and (b) of section 6 and the filling of vacancies among such members shall thereafter apply to the member or members appointed by the corporation or association. 2 Geo. V. c. 79, s. 20. Authorizing
corporations
or associa-
tions to
appoint
members to
council.

17. At its first meeting and thereafter at its annual meeting the Council shall appoint for the ensuing year one or more auditors who shall be chartered accountants, and whose duties shall be to examine all books, accounts and vouchers of the Council and report on them at the next annual meeting. 2 Geo. V. c. 79, s. 21. Auditors.

18. Subject to the by-laws of the Council determining the courses of study and examinations the Council may confer upon students of the College the diploma of "Associate of the Ontario College of Art," and the right to affix the letters A.O.C.A. after their names, and may also issue other certificates of proficiency as may be provided for by the by-laws. 2 Geo. V. c. 79, s. 22. Diplomas and
certificates.

19. The Council may arrange with the Department of Education of Ontario for courses and examinations for teachers of art and supervisors or art instructors in the schools of Ontario. 2 Geo. V. c. 79 s. 23. Arrangements
with Depart-
ment of
Education.

20. The Council may make by-laws providing for:— By-laws.

(a) the dates at which meetings shall be held; Dates of
meetings.

Procedure.

- (b) the conduct of meetings and the establishment of committees and the conduct of their business;

Courses of study, fees, etc.

- (c) prescribing the courses of study and examination and the fees payable by students;

Diplomas.

- (d) regulations for the awarding of diplomas and other certificates of the College;

Scholarships and exhibitions of work.

- (e) the establishment of scholarships and the exhibition of the work of the students, and generally to do all things necessary for carrying out the true object and intent of the College. 2 Geo. V. c. 79, s. 24.

Grants from municipalities.

21. The corporation of any municipality may make grants in aid of the College of such sums as the council of the municipality may deem expedient, and may make provision for the maintenance of pupils at the college who reside in or are the children of residents of the municipality. 2 Geo. V. c. 79, s. 25.

Power to hold or dispose of property.

22. The Council may purchase, acquire, take by gift, devise or bequest and hold such real and personal property as it may deem necessary for the purposes of the College, and may mortgage, sell and otherwise dispose of the same as occasion may require. 2 Geo. V. c. 79, s. 26.

CHAPTER 285.

An Act to provide for the Establishment of a
Provincial Museum.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as *The Royal Ontario Museum* Short title.
Act. 2 Geo. V. c. 80, s. 1.

2. In this Act "University" shall mean the University of Interpreta-
tion.
Toronto. 2 Geo. V. c. 80, s. 2. "University."

3. There shall be established at the City of Toronto a Pro- Provincial
Museum.
vincial Museum to be called The Royal Ontario Museum. 2 Geo. V. c. 80, s. 3.

4. The purposes of the Museum shall be— Objects.

- (a) The collection and exhibition of objects of every kind calculated to illustrate the natural history of Ontario, and thereby to aid in a knowledge of what it is able to contribute to science and industry;
- (b) The collection and exhibition of objects of any kind calculated to illustrate the natural history of the world and the history of man in all ages;
- (c) Such other objects as may be authorized by the Lieutenant-Governor in Council. 2 Geo. V. c. 80, s. 4.

5. The control and management of the Museum shall be Board of
Trustees.
vested in a Board of Trustees and the Board shall be a body corporate by name of The Royal Ontario Museum, and is hereinafter referred to as "The Board." 2 Geo. V. c. 80, s. 5.

6. The Board shall consist of ten members including the Number of
members.
ex-officio members. 2 Geo. V. c. 80, s. 6.

7. The Minister of Lands, Forests and Mines, the Minister of Education and the Chairman of the Governors of the University shall be *ex-officio* Ex-officio
members. members of the Board, and the other seven members shall be appointed, four by the Lieutenant-Governor in Council and three by the Governors of the University. 2 Geo. V. c. 80, s. 7.

Appointed
members,
term of
office.

8. The appointed members of the Board shall hold office for three years and until their successors are appointed. 2 Geo. V. c. 80, s. 8.

Vacancies
in Board.

9. Vacancies in the Board shall be filled in the case of members appointed by the Lieutenant-Governor in Council by the Lieutenant-Governor in Council, and in the case of members appointed by the Governors of the University by the Governors, and any person appointed to fill a vacancy shall hold office for the remainder of the term for which the member whose seat he is appointed to fill was appointed. 2 Geo. V. c. 80, s. 9.

Chairman
and Vice-
Chairman.

10. The Board shall elect annually from its members a Chairman and a Vice-Chairman. 2 Geo. V. c. 80, s. 10.

Real
property.

11. The Board may purchase, acquire, take by devise and hold such real property as it may deem necessary for the purposes of the Museum, and may with the sanction of the Lieutenant-Governor in Council mortgage, sell and dispose of the same as occasion may require. 2 Geo. V. c. 80, s. 11.

Lands vested
in Board.

12. The land hereinafter mentioned which is now vested in the Governors of the University shall be and it is hereby vested in the Board for the purposes of a site for the Museum that is to say: Lots numbers 1 and 2 on the south side of Bloor Street in the City of Toronto, according to registered plan, Number 452E, made by Messieurs Speight and Van Nostrand, Ontario Land Surveyors, for the Governors of the University of Toronto, subject to the right which is hereby reserved, to the Governors of the University of Toronto, their successors and assigns at all times to maintain and operate the tunnels passing through the said land and the works connected therewith constructed for the purpose of their power plant and to keep them in repair, and the right at all times as occasion may require to enter upon the said land and the buildings thereon for the purpose of inspecting, maintaining and repairing such tunnels and works and to do all things which may be necessary or convenient for that purpose. 2 Geo. V. c. 80, s. 12.

Transfer of
museum in
Education
Department.

13. The Lieutenant-Governor in Council may direct that the objects contained in the Museum of the Department of Education be transferred to the Board on such terms and conditions as he may prescribe. 2 Geo. V. c. 80, s. 13.

Donation
to Board.

14. The Governors of the University and the governing body of any University or College federated or affiliated with the University and any corporation may donate to the Board, or may transfer to it on such terms and conditions as may be agreed on, any objects of the character mentioned in section 4 which are possessed by the University, College or corporation. 2 Geo. V. c. 80, s. 14.

15.—(1) The Governors of the University may provide out of the endowment of the University or by borrowing on the security of it, or under the provisions of *The University Act*, a sum sufficient for the erection, equipment and furnishing of such buildings as the Board may deem necessary for the purposes of the Museum, not exceeding in the whole \$400,000. Grant from University of Toronto. Rev. Stat. c. 279.

(2) One-half of the sum so provided, including interest thereon, less \$100,000, which has already been repaid, shall be repaid by the Province to the Governors of the University in consecutive annual instalments of not more than \$50,000 each, and the same shall be charged upon the Consolidated Revenue Fund and be paid as directed by the Lieutenant-Governor in Council. Repayment by Province. 2 Geo. V. c. 80, s. 15.

16.—(1) The cost of the maintenance of the Museum shall be borne one-half by the Province and one-half by the Governors of the University. Cost of maintenance. 2 Geo. V. c. 80, s. 16.

(2) The one-half of the cost of maintenance to be borne by the Province shall be chargeable on and shall be paid out of the Consolidated Revenue Fund. Charge of province's share. 3-4 Geo. V. c. 18, s. 47.

17. The Board shall be deemed to be a department of the Government within the meaning of section 14 of *The Ontario Public Works Act*, and for the purposes of that Act. Application of Rev. Stat. c. 35. 2 Geo. V. c. 80, s. 17.

18. All property vested in the Board shall be exempt from taxation for municipal, school and other purposes. Exemption from taxation. 2 Geo. V. c. 80, s. 18.

19. The Board may make by-laws, rules and regulations for the management of the Museum and for the appointment of officers and servants, and such other by-laws as may be deemed necessary for carrying out the objects of this Act and the purposes for which the Museum is established. By-laws, rules and regulations. 2 Geo. V. c. 80, s. 19.

20. The by-laws of the Board may provide that the departments of the Museum be designated *The Royal Ontario Museum* of (*designating the department*) and that the person having the supervision of a department be called the Director of it; and may determine what shall constitute a department within the meaning of this section. Designation of departments. 2 Geo. V. c. 80, s. 20.

21. A certified copy of every such by-law, rule or regulation shall be transmitted to the Provincial Secretary within ten days after the passing of it, and the same or any part of it may within one month after such transmission be annulled by the Lieutenant-Governor in Council. Annulment of rules by Lieut.-Gov. in Council. 2 Geo. V. c. 80, s. 21.

Accounts,
audit.

22.—(1) The accounts of the Board shall be audited at least once a year by the Provincial Auditor or by some person appointed by the Lieutenant-Governor in Council for that purpose.

Report on
receipts, ex-
penditures.

(2) The Board shall make an annual report of its transactions to the Lieutenant-Governor in Council, in which shall be set forth in detail the receipts and expenditures for the year ended on the next preceding thirtieth day of June, and of the investments as they stood at the end of such year, and such other particulars as the Lieutenant-Governor in Council may from time to time require.

And on
investments.

When to be
transmitted.

(3) Such report shall be transmitted to the Provincial Secretary on or before the first day of December next after the close of the year for which it is made, and shall be laid before the Assembly within the first ten days of its then next session. 2 Geo. V. c. 80, s. 22.

SECTION XVI.

RELIGIOUS MATTERS.

CHAPTER 286.

An Act respecting the Property of Religious Institutions.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Religious Institutions Act*. Short title.
2 Geo. V. c. 81, s. 1.

2.—(1) Where a religious society or congregation of Christians desires to take a conveyance of land for the site of a church, chapel, meeting-house, burial-ground, residence for a minister, book-store, printing or publishing office or for any other religious or congregational purpose such society or congregation may appoint trustees to whom, and their successors, to be appointed in such manner as may be specified in the conveyance, the land requisite for all or any of such purposes may be conveyed; and such trustees and their successors in perpetual succession, by the name expressed in the conveyance, may take, hold and possess the land and maintain and defend actions for the protection thereof and of their property therein.

Power of religious societies to appoint trustees to take conveyances for site of a church, etc.
Powers of trustees.

(2) The conveyance to the trustees may be made to them under a collective name, and it shall not be necessary to set out their individual names as parties thereto, provided such names be set out or appear therein by recital or otherwise, and this shall apply to conveyances heretofore made as well as to those hereafter to be made.

Description of trustees in conveyances.

(3) If the name by which any such religious society or congregation or trustees therefor have heretofore held or hereafter hold land under and pursuant to the powers of this Act has been or shall be changed by such religious society or congregation by by-law or resolution such change of name shall not prejudice or affect the title of the society or congregation or their trustees to the land. 2 Geo. V. c. 81, s. 2.

Provision for change of name.

Conveyances to trustees appointed by Quarterly Official Boards of the Methodist Church.

3.—(1) If a Quarterly Official Board of the Methodist Church, under the discipline of that Church, appoints trustees for the purpose of taking a conveyance of land for any of the purposes mentioned in section 2 the land may be conveyed to the trustees according to the discipline and usage of such Church and their successors to be appointed in the manner specified in the conveyance authorized and used by such Church, and the conveyance shall have the same effect as a conveyance made to trustees appointed under subsection 2 of section 2.

Application of section.

(2) This section shall apply to any conveyance to trustees appointed by any such Board or by a Board of any of the Churches which united to form the Methodist Church executed prior to the 26th day of April, 1904. 2 Geo. V. c. 81, s. 3.

Conveyances executed prior to the passing of Act.

4. Every conveyance executed under this Act, or to trustees appointed by a Quarterly Official Board before the 26th day of April, 1904, shall be as valid and effectual if the same was registered before the expiration of twelve months after that day as if registered within twelve months after the execution thereof, except in so far as the same may be affected by the prior registration of other deeds or instruments relating to the same land; but in all cases where any person claiming to hold or to be entitled to any land included in any such conveyance on account of the omission to register the same shall, in virtue of such claim, have taken possession of such land before the eighth day of February, 1904, and also in all cases where the persons claiming to hold or to be entitled to such real property on account of such omission shall have actually sold or departed with, or shall have actually contracted to sell or depart with such land before the eighth day of February, 1904, the provisions of this section shall not render invalid any right or title to such land, but such right or title shall be taken and adjudged to be as if this Act had not been passed. 2 Geo. V. c. 81, s. 4.

Rights of persons claiming on account of invalidity of former conveyances.

Power to hold property in trust under 47 Vict. c. 88, sch. A.

5. Property real or personal may be devised, bequeathed, given or transferred to trustees appointed under the provisions of Schedule "A," of an Act passed in the forty-seventh year of the reign of Her late Majesty Queen Victoria and chaptered 88 for the special use of a congregation by way of endowment or otherwise, and such trustees may receive, hold, use, administer and dispose of such property in accordance with the trusts declared in the will, deed or other instrument creating such trust and not contrary to the rules, regulations or discipline of The Methodist Church, and in the event of failure or partial failure of any of the trusts so declared such property may be held, used, administered and disposed of in accordance with the purposes and in the manner from time to time provided for by such rules, regulations or discipline. 2 Geo. V. c. 81, s. 5.

6. Where trustees appointed as provided in sections 2 or 3 hold land for the purposes aforesaid or any of them and the religious society or congregation for which they hold the land desire to take a conveyance of additional land for any of such purposes, whether such additional land adjoins the land already held or not, and such religious society or congregation desires the same to be held by the same trustees, the society or congregation or, in the case of the Methodist Church, the proper Quarterly Official Board, may by resolution direct that such land be conveyed to the trustees by their collective name and upon the conveyance being so made the land shall vest in the trustees for the purposes declared by the conveyance and shall be subject to the provisions of this Act in the same manner as the other land held by the trustees. 2 Geo. V. c. 81, s. 6.

Conveyance of additional land to trustees by their collective names.

7.—(1) Any congregation or society of Christians entitled to the benefit of any land held under the provisions of this Act, or otherwise, may by a resolution passed by a two-thirds vote of the persons entitled to vote in respect of the appointment of trustees increase or decrease the number of trustees by the conveyance or otherwise to be appointed for the purpose of holding such land; or may in like manner fix the number of trustees if the conveyance makes no provision as to their number.

Power to vary number of trustees.

(2) No such resolution shall be passed unless at a meeting of which notice has been given in the manner required for a meeting for the election of trustees for such land, stating that a proposal for increasing or decreasing or determining, as the case may be, the number of the trustees, will be considered at the meeting.

Notice, meeting and resolution.

(3) If the resolution provides for the appointment of more trustees than are authorized by the conveyance, or more than there are in fact if the number is not limited by the conveyance, the same shall take effect forthwith; and the additional trustees to be appointed may be elected at the meeting at which the resolution is passed or at a subsequent meeting.

Time when resolution for increase in number to take effect.

(4) If the resolution provides for a smaller number of trustees than the conveyance provides for the resolution shall not take effect until vacancies occur, by death or otherwise, reducing the number of trustees to the number provided for by the resolution; and no other trustee shall be appointed until the number has been reduced below the number authorized by the resolution. 2 Geo. V. c. 81, s. 7.

Time when resolution for reduction in number to take effect.

8.—(1) Where a debt has heretofore been or is hereafter contracted for the building, repairing, extending or improving of a church, chapel, meeting-house, residence for a minister, book-store, printing or publishing office or other building on land held by trustees for the benefit of any society or congregation in Ontario, or for the purchase of the land on which the same has been or is intended to be erected, the

Power to mortgage.

trustees, or a majority of them, may secure the debt or any part thereof by a mortgage upon the land; or may borrow money to pay the debt or part thereof and may secure the repayment of the loan and interest by a like mortgage upon such terms as may be agreed upon.

Where church building is not erected on land held by trustees.

(2) The authority conferred by this section shall extend to any land so held although the church or other building in respect of which the debt is contracted is not erected on such land. 2 Geo. V. c. 81, s. 8.

Power to join in mortgage of lands held under separate conveyances.

9. In the case of separate but contiguous parcels of land held under separate conveyances by trustees for the same religious society or congregation under this Act, if such parcels of land be so used, occupied, or built upon as to become indivisible except by the removal, alteration, or destruction, in whole or in part, of such user, occupation or building, the trustees of such parcels may join in any mortgage authorized by the next preceding section. 2 Geo. V. c. 81, s. 9.

Power to lease.

10.—(1) The grantees in trust named in any letters patent from the Crown, or the survivors or survivor of them, or the trustees for the time being appointed in manner prescribed in the letters patent, whereby land is granted for the use of a religious society or congregation and any other trustees for the time being entitled by law to hold land in trust for the use of a religious society or congregation may lease for any term not exceeding twenty-one years land so held by them at such rent and upon such terms as the trustees or a majority of them deem reasonable.

Power to agree in leases to renew.

(2) In such lease the trustees may covenant or agree for the renewal thereof at the expiration of any or every term of years for a further term of twenty-one years or a less period at such rent and on such terms as may then by the trustees for the time being be agreed upon with the lessee, his heirs, executors, administrators or assigns, or may consent or agree for the payment to the lessee, his executors, administrators or assigns of the value of any buildings or other improvements which may at the expiration of any term be on the demised premises; and the mode of ascertaining the amount of such rent or the value of such improvements may also be specified in the original lease.

And to pay for improvements by lessee.

Consent of society or congregation to lease.

(3) The trustees shall not so lease without the consent of the society or congregation for whose use they hold the land in trust, and such consent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose; nor shall the trustees lease any land which at the time of making the lease is necessary for the purpose of erecting a church or place of worship or other building thereon or for a burial ground for the society or congregation.

Restrictions upon leasing.

(4) The trustees may, in their own names or by any name by which they hold the land, sue or distrain for rent in arrear, and may take all such means for the recovery thereof as landlords are entitled to take. 2 Geo. V. c. 81, s. 10. Remedies of trustees for rent in arrear.

11.—(1) Where land held by trustees for the use of a society or congregation becomes unnecessary to be retained for such use and it is deemed advantageous to sell it, the trustees for the time being may give public notice of an intended sale, specifying the premises to be sold and the time and terms of sale; and after publication of the notice once in each week for four successive weeks in a daily or a weekly newspaper published in or near the place where the land is situate they may sell the land at public auction according to the notice; but the trustees shall not be obliged to sell if in their judgment an adequate price is not offered. Power to sell. By auction.

(2) The trustees may thereafter sell the land either by public or private sale; but a less sum shall not be accepted at private sale than was offered at the public auction without the consent of the society or congregation. Private sale.

(3) This section shall not affect or vary any special powers or trusts for sale contained in any deed or instrument inconsistent herewith. 2 Geo. V. c. 81, s. 11. Special powers not affected.

12.—(1) Where land is held by trustees for the use of a religious society or congregation and a separate society or congregation is formed therefrom, the trustees for the time being may convey to the trustees of such separate society or congregation such part of the land as is no longer required for the use of the society or congregation for the use of which it is so held; but no such conveyance shall be made unless and until the assent thereto of such last mentioned society or congregation has been first obtained or the conveyance is sanctioned in the manner provided by section 15. Conveyance to trustees of new congregation.

(2) Every conveyance heretofore executed to any such separate society or congregation and so assented to or sanctioned shall be as valid and binding as if subsection 1 had been in force at the time such assent or sanction was given and such conveyance was executed; but this subsection shall not apply to a conveyance which is in question in an action pending on the 7th day of March, 1910, or which has heretofore been determined to be invalid or affect any adverse right or title acquired before that date. 2 Geo. V. c. 81, s. 12. As to such conveyance heretofore executed.

13.—(1) Where land is held by trustees for the use of any religious society or congregation and such society or congregation desires to unite with another society or congregation of the same denomination, the trustees for the time being may convey any land held by them to the trustees of such last mentioned society or congregation; but no such conveyance shall be made unless and until it is assented to or sanctioned in the manner provided by section 15. Conveyance where congregations unite.

Conveyances
heretofore
made.

(2) Every such conveyance heretofore made shall be as valid and binding as if subsection 1 had been in force at the time such assent or sanction was given and such conveyance was made. 2 Geo. V. c. 81, s. 13.

Conveyance
to denomina-
tional Board.

14. The trustees of any religious society or congregation may convey the land belonging to such society or congregation to any incorporated Board of the denomination of which such society or congregation forms part, but no such conveyance shall be made unless and until the assent thereto of such society or congregation has been first obtained or the conveyance is sanctioned in the manner provided by section 15. 2 Geo. V. c. 81, s. 14.

Consent of
society or
congregation
to sale.

15.—(1) Before any conveyance is executed in pursuance of a public or private sale the society or congregation for whose use the land is held shall be duly notified thereof, and its assent obtained to the execution of the deed, and such assent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose.

Evidence of.

(2) Such assent shall be held in favour of the grantee, his heirs and assigns to be conclusively attested by the execution of the deed by the chairman at such meeting, or by the official head of such society or congregation, or by some person appointed at such meeting for the purpose; and the person assuming to execute the deed as chairman, official head or appointee shall be deemed to be such chairman, official head or appointee as the case may be.

Approval by
County Judge.

(3) Instead of such assent it shall be sufficient for the validity of any such conveyance that the sale be sanctioned and the conveyance approved of by the Judge of the County or District Court of the county or district in which the land is situate. 2 Geo. V. c. 81, s. 15.

Meeting
to deter-
mine how
successors to
trustees are
to be ap-
pointed, or
to appoint
trustees.

16.—(1) Any society or congregation on whose behalf land is now, has been or hereafter may be held by a trustee or trustees, without the manner of appointing successors being set forth in the grant, conveyance, or devise of such land, or which is or may be entitled to any land, at any time hereafter may assemble in a public meeting duly convened by notice in writing, signed by at least five members of such society or congregation, and affixed to the door of its place of worship, at least eight days previous to the day appointed for holding such meeting; and at such meeting, by the votes of a majority of the members present, may determine in what manner the successors to such trustee or trustees shall be appointed, or may appoint a trustee or trustees of any land to which the society or congregation is entitled, and determine in what manner their successors in the trust shall be appointed.

Effect of
registration of
proceedings.

(2) Any land to which the society or congregation is entitled shall from time to time vest in and be held by the

trustee or trustees to be appointed as hereinbefore mentioned, and their successors in the trust, immediately upon the registration of the proceedings without any or further conveyance or instrument. 2 Geo. V. c. 81, s. 16.

17. Where members or adherents in any locality of two or more religious societies desire to build a house for public worship, it shall be lawful for each of the societies respectively to appoint from time to time one trustee in the manner and form prescribed in this Act, and the trustees of the religious societies so united shall have the like powers as are conferred on trustees under this Act, and no others; and as to any act, deed or thing to be done or made by trustees under this Act which requires the sanction or assent of the society or congregation, the trustees under this section shall obtain the sanction or assent of each and every of the religious societies so united, to be ascertained and signified in the manner hereinbefore mentioned. 2 Geo. V. c. 81, s. 17.

The case of two societies desiring to build a house of worship.

18.—(1) A record of the proceedings of every meeting held under this Act shall be entered in the minute book or other official register of the acts and proceedings of the society or congregation, and shall be signed by the chairman and secretary thereof, and shall thereafter be deposited of record among the archives of the society or congregation, and a copy of such record verified by the affidavit of the chairman or secretary of the meeting may be recorded in the registry office of the registry division in which the land is situate.

Record of proceedings.

Deposit and registry thereof.

(2) A copy of such proceedings taken from the minute book or other official register of the society or congregation and certified by the clerk or custodian of the records of the society or congregation, or a copy certified by the registrar of the registry division wherein the same has been registered, shall be *prima facie* evidence of the contents thereof. 2 Geo. V. c. 81, s. 18.

Copy as evidence.

19. Trustees selling or leasing land under the authority of this Act shall on the first Monday in July in every year have ready and open for the inspection of the society or congregation which they represent, or of any member thereof, a detailed statement showing the rents which accrued during the preceding year, and all sums of money whatever in their hands for the use and benefit of the society or congregation, which were in any manner derived from the land under their control or subject to their management, and also showing the application of any portion of the money which has been expended on behalf of the society or congregation. 2 Geo. V. c. 81, s. 19.

Duty of trustees as to accounting.

20. This Act shall not repeal, alter, affect or vary any of the provisions in any special Act contained with reference to any religious society or congregation, but, on the contrary, This Act not to affect special Acts as to religious bodies.

any of such provisions which differ from or are inconsistent with any of the provisions of this Act shall prevail, and where any additional rights or privileges are conferred by this Act they shall be construed as supplementary to the provisions contained in any such special Act; and in every case the special trusts or powers of trustees contained in any deed, conveyance or other instrument shall not be affected or varied by any of the provisions of this Act. 2 Geo. V. c. 81, s. 20.

Power to
appoint
joint trustees
for two or
more burial
grounds
which adjoin
each other.

21.—(1) Whenever any two or more parcels of land adjoining each other, or in the same neighbourhood, are held as sites for burial grounds by different bodies of trustees, whether of the same or different denominations, societies or congregations, and such trustees think it desirable that such parcels should be vested in one body of trustees such two or more bodies of trustees, or the majority of each of such bodies, may by deed appoint trustees to whom and their successors, to be appointed in such manner as may be specified in such deed, all or any of the land vested in such appointing bodies of trustees as sites for burial grounds may be conveyed, and such trustees so appointed and their successors in perpetual succession by the name expressed in the deed may take, hold and possess the land thereby or thereafter conveyed to them as a site or sites for a burial ground, and maintain and defend actions for the protection thereof and of their property therein, and the several appointing bodies of trustees may, in or by the same deed of appointment or by any other deed or deeds, convey and assure all or any of the parcels of land so vested in them respectively to such trustees so appointed and their successors upon, with and subject to such trusts, powers, limitations and provisions not inconsistent with the purposes of a burial ground as shall by the parties thereto be deemed proper.

Assent of
congregations
or religious
body re-
quired.

(2) No such deed of appointment of trustees and no such conveyance or assurance shall be made or executed by any body, or the majority of any body, of trustees unless or until the society or congregation for whose use the land is held is duly notified thereof, and its assent obtained to the execution of such deed of appointment, or of such conveyance or assurance, and such assent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose.

Evidence of
assent.

(3) Such assent shall be held in favour of such new trustees and their successors to be attested by the execution of the deed by the chairman at such meeting, or by the official head of such society or congregation, or by some person appointed at such meeting for the purpose; and the person assuming to execute the deed as chairman, official head, or appointee shall be presumed to be such chairman, official head, or appointee as the case may be. 2 Geo. V. c. 81, s. 21.

22.—(1) All the rights, powers, and privileges, conferred upon any society or congregation by this Act shall extend and apply to the Church of England in Ontario, formerly or otherwise called the United Church of England and Ireland in Canada, or the United Church of England and Ireland in Upper Canada, or the Church of England in Upper Canada.

Rights extended to the Church of England.

(2) The parson or other incumbent of the church for the time being and the churchwardens thereof shall, for the purposes of this Act, be deemed to be trustees within the meaning thereof.

Incumbent and churchwardens to be trustees within the meaning of Act.

(3) In cases within section 16 of the Act passed in the third year of the reign of Her late Majesty Queen Victoria, chapter 74, and intituled *An Act to make provision for the management of the Temporalities of the United Church of England and Ireland in this Province, and for other purposes therein mentioned*, the bishop, or parson, rector or incumbent or any successor or other person in whom the legal title or estate is vested, by, from or under any of them, shall also be deemed to be a trustee by whom the like rights and powers of trustees may be exercised as in the case of such trustees.

Bishop, etc., to be trustees under 3 V. c. 74, s. 16.

(4) In cases of property vested in the bishop of any diocese in trust, not covered by the next preceding subsection, the bishop shall also be deemed to be a trustee by whom the like powers of trustees under this Act may be exercised as in the case of such trustees.

Property vested in the Bishop in trust.

(5) In cases of property vested in the synod of any diocese within the Act passed in the 7th year of the reign of Her late Majesty Queen Victoria, chapter 68, intituled *An Act to incorporate the Church Societies of the United Church of England and Ireland in the Dioceses of Quebec and Toronto*, and the Act passed in the 32nd year of the reign of Her late Majesty Queen Victoria, chapter 51, intituled *An Act to incorporate the Synod of the Diocese of Toronto and to unite the Church Society of the Diocese of Toronto therewith*, the synod shall also be deemed to be a trustee by whom the like rights and powers of trustees under this Act may be exercised as in the case of such trustees; and the powers of the synod under this subsection may be exercised by and through such boards and committees as the synod may by by-law appoint for that purpose.

Property vested in the Synod in trust within 7 V. c. 68 and 32 V. c. 51.

(6) Provided that land shall not be sold or leased, mortgaged or otherwise incumbered under the powers conferred by this Act except with the consent of the vestry of the church or congregation interested therein and of the bishop of the diocese and the executive committee of the synod of the diocese; and it is hereby declared that the consent of the vestry given in accordance with the rules and canons of such Church shall be deemed to be the consent of the congregation, and the execution of the conveyance by the bishop and by the secretary or secretaries of the synod, or a

How land may be sold or encumbered, consent requisite.

memorandum of consent indorsed thereon and signed by them, shall, in favour of the grantee, his heirs and assigns, be conclusive evidence of the consent of the bishop and executive committee. 2 Geo. V. c. 81, s. 22.

Rights extended to Roman Catholic Church.

23. All the rights and privileges conferred upon any religious society or congregation mentioned in section 2 shall extend in every respect to the Roman Catholic Church, to be exercised according to the government of that Church. 2 Geo. V. c. 81, s. 23.

Rights extended to Jews.

24. All the rights and privileges conferred upon any religious society or congregation mentioned in section 2 have been since the 7th day of April, 1891, and are hereby extended to and shall apply to any society or congregation of Jews professing the Jewish religion. 2 Geo. V. c. 81 s. 24.

SECTION XVII.

PUBLIC INSTITUTIONS.

CHAPTER 287.

An Act respecting The Reformatory for Ontario.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Ontario Reformatory Act*. Short title.
3-4 Geo. V. c. 77, s. 1.

2. In this Act,

(a) "County" shall include district;

Interpreta-
tion.

"County."

(b) "Inspector" shall mean the Inspector designated by the Minister under *The Prisons and Public Charities Inspection Act* to whom is assigned the duty of inspecting the Reformatory for Ontario;

"Inspector."

(c) "Minister" shall mean the member of the Executive Council charged with the administration of this Act. 3-4 Geo. V. c. 77, s. 2.

"Minister."

3. "The Central Prison for the Province of Ontario," shall be called "The Reformatory for Ontario." 3-4 Geo. V. c. 77, s. 3.

Name of
prison.

4. The Lieutenant-Governor in Council may appoint for the Reformatory a superintendent, a surgeon, a bursar, an accountant, a storekeeper and such other officers as may be necessary. 3-4 Geo. V. c. 77, s. 4.

Appoint-
ment of
certain
officers.

5. The Lieutenant-Governor in Council may make regulations for the management and discipline of the Reformatory and for prescribing the duties and conduct of the superintendent, officers and employees therein, and as to the diet, clothing, maintenance, employment, classification, instruction, discipline, correction, punishment and reward of persons detained therein. 3-4 Geo. V. c. 77, s. 5.

Regulations.

6.—(1) The Inspector may summarily suspend any officer for misconduct, of which the Minister shall be at once notified,

Power of
Inspector
over officers.

and the suspension shall continue until the pleasure of the Lieutenant-Governor is known, and the Inspector may, until such pleasure has been intimated to him, cause any such officer so suspended to be removed beyond the precincts of the prison.

His duty.

(2) It shall be the duty of the Inspector to recommend the removal of any officer or employee whom he deems incapable, inefficient or negligent in the execution of his duty, or whose presence in the Reformatory he deems injurious to the interests thereof; and the pay of every officer so suspended shall cease during the period of such suspension. 3-4 Geo. V. c. 77, s. 6.

Transfer from common gaol to Reformatory.

7. A male person confined in a common gaol under sentence of imprisonment for an offence against any Act of this Legislature may by the direction and warrant of the Inspector be transferred from such common gaol to the Reformatory for the unexpired portion of the term of imprisonment to which he was sentenced or committed; and such person shall thereupon be imprisoned in the Reformatory for the residue of the term and shall be subject to all the regulations of the Reformatory. 3-4 Geo. V. c. 77, s. 7.

Convicts may be sentenced to Reformatory instead of common gaol.

8. The Court before which any male person is convicted under, or under the authority of an Act of this Legislature, of an offence punishable by imprisonment in the common gaol may sentence such person to imprisonment in the Reformatory. 3-4 Geo. V. c. 77, s. 8.

Transfer of prisoners.

9. The Minister or such other officer as may be authorized by the Lieutenant-Governor in Council may by warrant direct the removal from the Reformatory back to the common gaol, or from an industrial school for boys or an industrial farm to the Reformatory, of any person detained therein under the authority of any Act of this Legislature. 3-4 Geo. V. c. 77, s. 9.

Officer to deliver up prisoners for removal.

10. The superintendent of the Reformatory, or the superintendent of an industrial school for boys, or of an industrial farm, or the keeper of a common gaol, having the custody of any person ordered to be removed shall, when required so to do, deliver him up to the provincial bailiff or other officer or person who produces the warrant, together with a copy certified by the superintendent or gaoler of the sentence or order of committal of such prisoner and the date thereof as given to him on the reception of such person into his custody. 3-4 Geo. V. c. 77, s. 10.

Superintendent to receive prisoner and detain him.

11. The superintendent shall receive into the Reformatory every person certified to him as sentenced to imprisonment therein, or transferred thereto by warrant, and shall there detain him, subject to the rules, regulations and discipline

thereof, until the term of his detention is completed or until he is otherwise discharged in due course of law. 3-4 Geo. V. c. 77, s. 11.

12. The superintendent shall be the chief executive officer of the Reformatory, and as such shall have under the direction of the Inspector the execution, control and management of all its affairs, subject to the Regulations, and the superintendent shall be responsible for the faithful and efficient administration of the offices of every department of the institution except that of the bursar. 3-4 Geo. V. c. 77, s. 12.

Powers and
duties of
superin-
tendent.

13. The superintendent, the bursar, the accountant and every storekeeper and steward of the Reformatory shall give security to the satisfaction of the Minister and for such amount as he shall direct. 3-4 Geo. V. c. 77, s. 13.

Security
by officers.

14.—(1) The Inspector shall not, nor shall the superintendent or other officer or employee in such Reformatory, either in his own name or in the name of or in connection with or as the agent of any other person, provide, furnish or supply any materials, goods or provisions for the use of such Reformatory, or be concerned, directly or indirectly, in furnishing or supplying the same or in any contract relating thereto.

Officers not to
be interest-
ed in any
prison con-
tract.

(2) Every person who contravenes any of the provisions of this section shall incur a penalty of \$1,000. 3-4 Geo. V. c. 77, s. 14.

Penalty.

15. The superintendent shall not nor shall any officer or employee buy from or sell to any inmate in the Reformatory anything whatever, or take or receive to his own use or for the use of any other person any fee, gratuity or emolument from any inmate or visitor or any other person, or employ any inmate in working for him. 3-4 Geo. V. c. 77, s. 15.

Officers not
to trade, etc.,
in the
Reformatory.

16.—(1) Except under the Regulations no morphia, cocaine or other narcotic drug, and no intoxicating liquors within the meaning of *The Liquor License Act*, shall on any pretence whatever be brought into the Reformatory for the use of any officer or employee or person in the institution or for the use of any prisoner therein.

Prohibition
of liquors
and drugs.
Rev. Stat.
c. 215.

(2) Every person, other than an officer of the Reformatory acting under the Regulations, who gives any morphia, cocaine or other narcotic drug or intoxicating liquor, and every officer, employee or other person who gives or conveys tobacco in any form to any prisoner shall incur a penalty of \$40, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 77, s. 16.

Penalty.

Rev. Stat. c. 90.

17. The Reformatory shall be furnished with all requisite means for carrying on beneficial labour by the inmates in

Labour.

shops and the various forms of labour, having for its base, clay, sand, gravel, stone, lime, agriculture, horticulture and dairying in all their various branches. 3-4 Geo. V. c. 77, s. 17.

Record of
conduct to
be kept.

18. A record of the conduct of the inmates of the Reformatory shall be kept. 3-4 Geo. V. c. 77, s. 18.

Sentences.

19.—(1) Every person sentenced directly to the Reformatory shall be sentenced to imprisonment therein for a period of not less than three months and for an indeterminate period thereafter of not more than two years less one day.

Considera-
tion by
Board of
Parole.

(2) The Ontario Board of Parole before paroling any inmate shall take into consideration his history for the purpose of determining whether he should be paroled. 3-4 Geo. V. c. 77, s. 19.

Employment
beyond the
precincts.

20.—(1) The Lieutenant-Governor in Council may authorize, direct or sanction the employment of any prisoner upon any specific work or duty beyond the limits of the Reformatory.

Conditions
of employ-
ment.

(2) Every such prisoner during such employment shall be subject to all the provisions of this Act and to the Regulations and discipline of the Reformatory, and to such other regulations of the superintendent as may be prescribed by the Inspector. 3-4 Geo. V. c. 77, s. 20.

Prisoner not
to be dis-
charged on
a Sunday.

21. When the term of imprisonment of any prisoner expires on a Sunday he shall be discharged on the previous Saturday unless he desires to remain until the following Monday. 3-4 Geo. V. c. 77, s. 21.

Detention of
prisoners if
labouring
under cer-
tain diseases.

22. No prisoner shall be discharged from the Reformatory at the termination of his sentence if then labouring under any contagious or infectious disease or under any acute or dangerous illness, but he shall be permitted to remain in the Reformatory until he recovers from such disease or illness; and any convict or prisoner remaining from such cause in the Reformatory shall be under the same discipline and control as if his sentence were still unexpired. 3-4 Geo. V. c. 77, s. 22.

Property
belonging
to Reforma-
tory.

23. The Reformatory shall be held to include all the land procured for such institution, and all buildings and machinery erected or used thereon and all carriages, waggons, sleighs or other vehicles for land carriage being the property of such Reformatory or employed in its service; and the superintendent shall have the custody and care thereof. 3-4 Geo. V. c. 77, s. 23.

Custody.

Contracts,
how to be
made.

24. All dealings and transactions on account of the Reformatory, and all contracts for goods, wares or merchandise

necessary for maintaining and carrying it on, or for the sale of goods prepared or manufactured in the Reformatory, or for the hire, labour or employment of any of the prisoners either within or without the limits of the Reformatory, shall be entered into and carried out by the Inspector of Prisons and Public Charities in his corporate name on behalf of His Majesty. 3-4 Geo. V. c. 77, s. 24.

25. For more efficiently carrying on the industries at the Reformatory the Minister may cause an account to be opened in any branch in Ontario of a chartered bank of the Dominion of Canada in the name of the "Reformatory Industries," with a credit from year to year to cover what may be required for the year for the purposes of the business in connection with such industries, not exceeding the estimated sales of the year as reported to the Assembly by the Minister. 3-4 Geo. V. c. 77, s. 25.

Account
with a bank
for the Re-
formatory
industries.

26. The account shall be drawn upon in the manner hereinafter provided. 3-4 Geo. V. c. 77, s. 26.

Drafts on
account.

27. All money received by the Reformatory for and on account of goods sold of whatever kind shall be deposited from day to day in the bank to the credit of the account. 3-4 Geo. V. c. 77, s. 27.

Deposit of
money
received for
goods sold.

28. All cheques drawn upon the account shall be signed by the superintendent and bursar of the Reformatory and countersigned by the Inspector and the Minister. 3-4 Geo. V. c. 77, s. 28.

Cheques,
how signed
and counter-
signed.

29. Every cheque drawn upon the account shall, when presented to the several officers required to sign and countersign the same for signature, have attached thereto for the information of such officers the original bill, or a duplicate or certified copy of the original bill, for payment of which the cheque is issued, the bill having been theretofore certified by the accountant of the Reformatory to be correct. 3-4 Geo. V. c. 77, s. 29.

Bill to be
attached to
cheque when
presented
for sig-
nature.

30. At the end of each fiscal year there shall be paid over to the Treasurer of Ontario the balance of the money standing at the credit of the account. 3-4 Geo. V. c. 77, s. 30.

Payment of
balance to
Provincial
Treasurer.

31. The Provincial Auditor shall audit the industrial accounts of the Reformatory at least every three months. 3-4 Geo. V. c. 77, s. 31.

Audit.

CHAPTER 288.

An Act respecting The Andrew Mercer Ontario Reformatory for Females.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Andrew Mercer Reformatory Act*. 3-4 Geo. V. c. 78, s. 1.

Interpretation.

2. In this Act,—

"Inspector."
Rev. Stat.
c. 801.

(a) "Inspector" shall mean the Inspector designated by the Minister under *The Prisons and Public Charities Inspection Act* to whom is assigned the duty of inspecting the Reformatory;

"Minister."

(b) "Minister" shall mean the member of the Executive Council charged for the time being with the administration of this Act;

"Reformatory."

(c) "Reformatory" shall mean The Andrew Mercer Ontario Reformatory for Females;

"Regulations."

(d) "Regulations" shall mean regulations made by the Lieutenant-Governor in Council under the authority of this Act or under *The Prisons and Public Charities Inspection Act*. 3-4 Geo. V. c. 78, s. 2.

Rev. Stat.
c. 801.

Object of Reformatory.

3. The Andrew Mercer Ontario Reformatory for Females shall be for the reception, detention and employment of such female offenders as are hereinafter mentioned. 3-4 Geo. V. c. 78, s. 3.

Appoint-
ment of
certain
officers.

4. The Lieutenant-Governor in Council may appoint for the Reformatory a superintendent, an accountant, a surgeon and such other officers as he may deem necessary. 3-4 Geo. V. c. 78, s. 4.

Regula-
tions, etc.

5. The Lieutenant-Governor in Council may make regulations for the management and discipline of the Reformatory and for prescribing the duties and conduct of the superintendent and the officers and servants employed therein, and as to the diet, clothing, maintenance, employment, classification, instruction, discipline, correction, punishment and reward of persons detained therein. 3-4 Geo. V. c. 78, s. 5.

6. The Inspector may summarily suspend any officer for misconduct, of which the Minister shall be at once notified, and the suspension shall continue until the pleasure of the Lieutenant-Governor is known, and the Inspector may, until such pleasure is intimated to him, cause any such officer so suspended to be removed beyond the precincts of the Reformatory.

Power of
Inspector
over officers.

(2) It shall be the duty of the Inspector to recommend the removal of any officer whom he deems incapable, inefficient or negligent in the execution of his duty, or whose presence in the Reformatory he may deem injurious to the interests thereof; and the pay of every officer so suspended shall cease during the period of such suspension. 3-4 Geo. V. c. 78, s. 6.

His duty.

7. The Inspector may make rules for the keeping of a correct record of the conduct of inmates, with a view to permitting any offender to be paroled upon the recommendation of the superintendent, approved by the Inspector and endorsed by the Ontario Board of Parole. 3-4 Geo. V. c. 78, s. 7.

Encourage-
ment of
good be-
haviour.

8. A female detained in a common gaol under sentence of imprisonment for an offence against any Act of this Legislature may, by the direction and warrant of the Inspector, be conveyed by a female bailiff appointed for that purpose from such common gaol to the Reformatory for the unexpired portion of the term of imprisonment to which she was sentenced or committed; and such female shall thereupon be imprisoned in such Reformatory for the residue of the term and shall be subject to all the regulations of the Reformatory. 3-4 Geo. V. c. 78, s. 8.

Transfer
from gaol
to Refor-
matory.

Female bailiff.

9.—(1) The Court before which any female is convicted under, or under the authority of any Act of this Legislature, of an offence punishable by imprisonment may sentence such female to imprisonment for an indefinite period not exceeding two years in the Reformatory instead of the common gaol.

Female
convict
may be
sentenced
to Refor-
matory.

(2) Such female shall be conveyed to the Reformatory by a female bailiff. 3-4 Geo. V. c. 78, s. 9.

Female
bailiff.

10.—(1) The Minister or such other officer as may be authorized by the Lieutenant-Governor in Council may by warrant direct the removal from the Reformatory back to the common gaol of any female under sentence of imprisonment for an offence against any Act of this Legislature, and such female shall thereupon be conveyed to the common gaol by the female bailiff.

Re-transfer
to gaol may
be directed.

(2) The superintendent of the Reformatory, or the keeper of any common gaol, having the custody of any female ordered to be removed shall, when required so to do, deliver her up to the female bailiff who produces the warrant, together with a copy certified by the superintendent or gaoler of the sen-

Officer to
deliver up
prisoners
for removal.

tence and date of conviction as given to him on reception of such female into his custody. 3-4 Geo. V. c. 78, s. 10.

Copy of
sentence
sufficient
warrant.

11. Any female bailiff may convey to the Reformatory any female person sentenced or liable to be imprisoned therein and deliver her to the superintendent without any further warrant than a copy of the minute of the sentence taken from the records of the court before which she was tried and certified by the convicting justice or the clerk of the court; and the superintendent shall receive her into the Reformatory and detain her there, subject to all the rules, regulations and discipline thereof, until the expiration of her sentence or until she is otherwise discharged in due course of law. 3-4 Geo. V. c. 78, s. 11.

Superinten-
dent to
receive and
detain
prisoners.

Officer to
give and
take re-
ceipt for
prisoner.

12. The female bailiff shall give a receipt to the superintendent or gaoler for the prisoner, and shall thereupon without delay convey and deliver her with the certified copy into the custody of the superintendent of the Reformatory or of the gaoler of the gaol mentioned in the warrant, who shall give to such bailiff a receipt in writing for her; and the prisoner shall be kept in custody in such Reformatory or gaol until the expiration of her sentence, or until she is otherwise discharged in due course of law, unless she is in the meantime again removed under competent authority. 3-4 Geo. V. c. 78, s. 12.

Powers and
duty of
Superin-
tendent.

13. The superintendent shall reside within the institution and shall be the chief executive officer of it and as such shall have, under the direction of the Inspector, the execution, control and management of its affairs, subject to the Regulations, and the superintendent shall be responsible for the faithful and efficient administration of the offices of every department of the institution. 3-4 Geo. V. c. 78, s. 13.

Security by
accountant.

14. The accountant shall give security to the satisfaction of the Minister and for such amount as he shall direct for the faithful performance of the duties of the office. 3-4 Geo. V. c. 78, s. 14.

Officers not
to be inter-
ested in any
contract.

15.—(1) The Inspector shall not, nor shall the superintendent or other officer or employee of the Reformatory, either in his own name or in the name of or in connection with or as the agent of any other person, provide, furnish or supply any materials, goods, or provisions for the use of the Reformatory, or be concerned, directly or indirectly, in furnishing or supplying the same or in any contract relating thereto.

Penalty.

(2) Every person who contravenes any of the provisions of this section shall incur a penalty of \$1,000. 3-4 Geo. V. c. 78, s. 15.

16. The superintendent shall not nor shall any officer or employee buy from or sell to any prisoner in the Reformatory anything whatever, or take or receive to his own use or for the use of any other person any fee, gratuity or emolument from any prisoner or visitor or any other person, or employ any convict in working for him. 3-4 Geo. V. c. 78, s. 16.

Officers not to engage in trade, etc., in the Reformatory.

17.—(1) Except under the Regulations no morphia, cocaine or other narcotic drug, and no intoxicating liquors within the meaning of *The Liquor License Act*, shall on any pretence whatever be brought into the Reformatory for the use of any officer or employee or person in the institution or for the use of any prisoner therein.

Prohibition of liquors and drugs. Rev. Stat. c. 215.

(2) Every person, other than an officer of the Reformatory acting under the Regulations, who gives any intoxicating liquors, morphia, cocaine or other narcotic drug, and every officer, employee or other person who gives or conveys tobacco in any form to any prisoner shall incur a penalty of \$40, recoverable under *The Ontario Summary Convictions Act*. 3-4 Geo. V. c. 78, s. 17.

Penalty. Rev. Stat. c. 90.

18. The Reformatory shall be furnished with all requisite means for enforcing the performance of beneficial labour by the inmates thereof. 3-4 Geo. V. c. 78, s. 18.

Beneficial labour.

19. All the land enclosed and used in connection with the Reformatory building shall be deemed to be part of the Reformatory. 3-4 Geo. V. c. 78, s. 19.

Reformatory, what to include.

20. All dealings and transactions on account of the Reformatory, and all contracts for goods, wares or merchandise necessary for maintaining and carrying it on or for the sale of goods prepared or manufactured in the Reformatory, or for the hire, labour or employment of any of the prisoners, shall be entered into and carried out by the Inspector of Prisons and Public Charities in his corporate name on behalf of His Majesty. 3-4 Geo. V. c. 78, s. 20.

Contracts, etc., how made.

21. When the term of imprisonment of any prisoner expires on a Sunday she shall be discharged on the previous Saturday unless she desires to remain until the following Monday. 3-4 Geo. V. c. 78, s. 21.

Prisoners not to be discharged on Sunday.

22. No prisoner shall be discharged at the termination of her sentence or transferred from the Reformatory to a gaol if she has syphilitic or other venereal disease, or any contagious or infectious disease, or is suffering from any acute or dangerous illness, but she shall remain in the Reformatory until the surgeon certifies to the Inspector that she has recovered from the disease or illness; and any prisoner so remaining shall be under the same discipline and control as if her sentence were still unexpired. 3-4 Geo. V. c. 78, s. 22.

Detention of prisoners if labouring under certain diseases.

CHAPTER 289.

An Act respecting Industrial Refuges for Females.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as *The Female Refuges Act*.
3-4 Geo. V. c. 79, s. 1.

Interpretation. 2. In this Act,

"Industrial Refuge." (a) "Industrial Refuge" shall mean an institution for the care of females, designated by the Lieutenant-Governor in Council as an institution to which females may be committed under this Act;

"Inspector." Rev. Stat. c. 301. (b) "Inspector" shall mean the Inspector designated by the Minister under *The Prisons and Public Charities Inspection Act*, to whom is assigned the duty of inspecting institutions under this Act;

"Minister." (c) "Minister" shall mean the member of the Executive Council charged for the time being with the administration of this Act;

"Superintendent." (d) "Superintendent" shall mean the matron or other person in charge of such institution. 3-4 Geo. V. c. 79, s. 2.

Commitment or transfer of sentenced females to industrial refuges. 3.—(1) Any female, between the ages of fifteen and thirty-five years, sentenced or liable to be sentenced to imprisonment in a common gaol by a police magistrate may be committed to an industrial refuge; and any such female undergoing imprisonment in a common gaol including imprisonment for default of payment of a fine may be transferred by order of a police magistrate or of the Inspector to an industrial refuge to be there detained for an indefinite period not exceeding five years.

And of inmates of industrial schools. (2) An inmate of an industrial school for girls may in like manner be transferred to and detained in an industrial refuge.

Religion of inmates. (3) No Protestant female shall be committed or transferred under this Act to a Roman Catholic institution and no Roman Catholic female shall be committed or transferred to a Protestant institution. 3-4 Geo. V. c. 79, s. 3.

4. A correct record of the conduct of the inmates of an industrial refuge shall be kept with a view to permitting any inmate to be released on parole by the Inspector. 3-4 Geo. V. c. 79, s. 4. Record of conduct.

5. The Lieutenant-Governor may at any time order that any person who has been committed or transferred to an industrial refuge shall be discharged. 3-4 Geo. V. c. 79, s. 5. Discharge by order of Lieutenant-Governor.

6. The Inspector may direct the removal of any inmate who proves unmanageable or incorrigible from an industrial refuge to a common gaol or to The Andrew Mercer Ontario Reformatory for Females. 3-4 Geo. V. c. 79, s. 6. Transfer to gaol or Reformatory.

7. Any female bailiff to whom the warrant of the police magistrate or the Inspector is directed may convey to the industrial refuge named in the warrant the person named therein and deliver her to the Superintendent. 3-4 Geo. V. c. 79, s. 7. Female bailiff to make transfer.

8. An inmate who escapes from an industrial refuge may be again arrested without any warrant by any peace officer and returned to the refuge. 3-4 Geo. V. c. 79, s. 8. Recapture of escaped inmate.

9. No inmate shall be discharged from an industrial refuge if she has syphilitic or other venereal disease or is suffering from any contagious or infectious disease or has any acute or dangerous illness, but she shall remain in the industrial refuge until a legally qualified medical practitioner on the staff of the refuge gives a written certificate that such inmate has fully recovered from the disease or illness; and any inmate remaining from any such cause in the industrial refuge shall continue to be under its discipline and control. 3-4 Geo. V. c. 79, s. 9. Detention of inmates if labouring under certain diseases.

10. Where a legally qualified medical practitioner, having the care of the health of the inmates of an industrial refuge, certifies that an inmate on account of natural imbecility is so feeble-minded as to render it probable that she would be unable to take care of herself if discharged from the refuge, she shall not be discharged until such medical practitioner, with the approval of the Inspector, orders her discharge. 3-4 Geo. V. c. 79, s. 10. Special provision for detention of feeble-minded inmates.

11. No person shall be committed to an industrial refuge without the consent of the Superintendent. 3-4 Geo. V. c. 79, s. 11. Consent of superintendent to committal.

12. Every industrial refuge shall be a house of correction for the purposes of *The Prisons and Reformatories Act of Canada*. 3-4 Geo. V. c. 79, s. 12. Refuges to be houses of correction. R.S.C. c. 148, s. 80.

CHAPTER 290.

An Act respecting Houses of Refuge.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PART I.

Short title.

1. This Act may be cited as *The Houses of Refuge Act*.
2 Geo. V. c. 82, s. 1.

Counties required to establish houses of refuge.

2.—(1) The corporation of every county, which has not already established and erected, shall forthwith establish and erect, and the corporation of every county shall at all times maintain a house of refuge for the reception of persons of the classes described in section 14.

Joint house of refuge.

(2) In lieu of establishing separate houses of refuge, the councils of two or three contiguous counties may, with the approval in writing of one of the Inspectors of Prisons and Public Charities, enter into an agreement for the establishment, erection and maintenance of, and may establish, erect and maintain a joint house of refuge for such counties.
2 Geo. V. c. 82, s. 2.

Establishment of by city or separated town.

3.—(1) The corporation of every city and separated town may establish, erect and maintain a house of refuge for the purposes mentioned in section 2.

Agreement with county as to establishment of.

(2) In lieu of establishing a separate house of refuge, the corporation of a city or separated town may, with the approval in writing of one of the Inspectors of Prisons and Public Charities, enter into an agreement with the corporation of the county in which the city or town is territorially situate for the establishment, erection and maintenance of and they may establish, erect and maintain a joint house of refuge for such city or separated town and such county.

Location of house of refuge.

(3) In the cases provided for by subsections 1 and 2, the house of refuge may be located within or without the limits of the city or separated town. 2 Geo. V. c. 82, s. 3.

Approval of plans.

4. A house of refuge shall not be erected until the plans of it have been approved by one of such Inspectors. 2 Geo. V. c. 82, s. 4.

Boards of management, for house established by county.

5.—(1) Where a county has established or shall hereafter establish a separate house of refuge the council shall appoint

two persons, who may be members of the council, and who with the warden shall form a board of management and shall have the management, regulation and control of the house of refuge, subject to the rules and regulations for the government of it and of its inmates made by the council under the authority of section 7.

(2) Where two counties agree to establish a joint house of refuge the councils shall by the agreement provide for the appointment of one person who, with the warden of each county, shall form the board of management, and where three counties agree to establish a joint house of refuge the board of management shall consist of the wardens of the counties.

For house established by two counties.

(3) Where a city or a separated town and a county agree to establish a joint house of refuge the agreement shall provide for the appointment of one person who with the mayor of the city or town and the warden of the county shall form the board of management. 2 Geo. V. c. 82, s. 5.

For house established by county and a city or separated town.

6. Where two or more corporations agree to establish a joint house of refuge the agreement shall provide as to the corporation to which any grant made under the provisions of Part II. shall be paid. 2 Geo. V. c. 82, s. 6.

Agreement to name corporation to receive grant.

7.—(1) The council of a corporation which has established or hereafter establishes a separate house of refuge shall appoint a superintendent, a matron and other officers for its care and management, and prescribe their duties and fix their salaries and make rules and regulations for the government of the house of refuge and of its inmates.

Appointment of officers.

Rules and regulations.

(2) Except in the case provided for by subsection 1 the duties and powers mentioned in that subsection shall be performed and may be exercised by the Board of Management, except as to salaries, which shall be fixed by joint action of the corporations interested. 2 Geo. V. c. 82, s. 7.

Powers of Board.

8. The rules and regulations provided for by the next preceding section shall not take effect until approved by the Lieutenant-Governor in Council. 2 Geo. V. c. 82, s. 8.

Approval of rules and regulations.

9.—(1) The council of a county, which has established a house of refuge, and the council of a city or town may from time to time enter into agreements for connecting the house of refuge with the sewerage system of such city or town, and may pass all by-laws and do all things necessary to carry the agreement into effect.

Agreements for extending sewerage system to houses of refuge.

(2) The council of the county may also contract with The Hydro-Electric Power Commission or with any municipal corporation, company or individual owning or operating a waterworks system, or works for the production and supply of electricity for light, heat or power in such city or town

Contracts for supplying water and electric light and power.

for the supply of water for domestic purposes and for fire protection or of electricity for light, heat or power purposes at the house of refuge.

Power to carry necessary works over intervening lands.

(3) For the purpose of connecting such house of refuge with such sewerage or waterworks system or electrical works or with the system of The Hydro-Electric Power Commission the corporation of such county, its officers, servants, agents or workmen may enter upon and pass over any lands or highways lying between such house of refuge and such city or town; and may dig up such lands and highways and construct sewers and lay down any pipes and place all necessary poles or wires, and do all necessary work in or upon such lands and highways, making due compensation to the owners as provided by *The Municipal Act*.

Rev. Stat. c. 192.

Powers of municipalities acting jointly.

(4) Where two or more municipal corporations have established a joint house of refuge under the provisions of this Act they shall have, in respect of such house, all the powers conferred upon the council of a county by this section. 2 Geo. V. c. 82, s. 9.

Assent of electors to borrowing for houses of refuge not required.

10. It shall not be necessary to obtain the assent of the electors to a by-law for raising such sums as may be required for the purchase of a site or the erection of buildings for a house of refuge, or the purchase of land to be used in connection therewith, or for any addition to or improvement of such buildings, or for the purpose of any works authorized by section 9; but the amount owing in respect of the same shall not at any time exceed \$50,000. 2 Geo. V. c. 82, s. 10.

Power to compel persons sent to house of refuge to work,

11.—(1) The council or the Board of Management, as the case may be, may provide for requiring every person sent to the house of refuge to perform such work or service at such times, for such hours, and at such trade or labour as he may appear to be fit for, and for buying material therefor, and for selling the articles manufactured therefrom, and for applying the earnings, or part of the earnings of such person, for his maintenance or for the maintenance of his wife and children, or for the general maintenance of the house of refuge, or towards aiding such person to reach his friends, or any place to which it may be deemed advisable to send him.

Detention of indigent persons.

(2) The council of a county, city or separated town which has established or joined in establishing under this Act a house of refuge may pass by-laws, for committing to and detaining therein indigent persons; and a warrant of committal under the hand of the head of the council and the seal of the corporation shall be sufficient authority to the Superintendent of such house to receive and detain the person mentioned in it until he is discharged under the rules and regulations or by order of any of the Inspectors of Prisons and Public Charities. 2 Geo. V. c. 82, s. 11.

12.—(1) Where an inmate of a house of refuge desires to transfer his real or personal property, or any part of it, absolutely or by way of security to the corporation or corporations by which the house was established, as payment or compensation for his maintenance while he remains an inmate, or as may be agreed upon, the corporation or corporations may receive and hold such real or personal property and may dispose of the same in such manner as the council or councils may deem proper, or, if it is held only as security, it shall, upon the death of such person, be sold and disposed of, and the proceeds, after defraying the costs and expenses of and incidental to the sale, shall be applied in payment of the cost of the maintenance of such person, with interest at the rate of six per cent. per annum, and the surplus, if any, shall be paid to the personal representative of such person, upon demand.

Transfer of property to corporation by inmates of houses of refuge.

(5) No such transfer shall be valid, unless it is executed in the presence of a Judge of the County Court of the County in which the house of refuge is situate, and unless there is endorsed on it a certificate signed by the Judge, that he has examined the grantor, and is satisfied that the transfer is not improvident, and that it was made voluntarily, and that the grantor understood the effect of it, and desired to make the transfer.

Approval of transfer by county judge.

(3) Where an inmate of a house of refuge is or becomes possessed of any real or personal property out of which the cost of his maintenance or any part of it can be paid, if any sum is due for such maintenance and has not been paid, a Judge of the County Court of the County in which the house is situate may, on the application of the council of any municipality interested, and upon such notice to the inmate as he may direct, order that any part of such real and personal property be vested in the corporation or corporations by which the house was established for the purpose of securing payment of the cost of the maintenance so due, or which may thereafter become due, with full power to take or recover possession of, manage, lease, mortgage, sell and convey all or any part of such property in the name of the inmate, or may make such other order, limiting or extending such powers, as may be deemed proper, due regard being had to the value of the property, and as to what part, if any, of it is necessary for the support and maintenance of the family of the inmate.

Maintenance of inmates of house of refuge who are possessed of means.

(4) No conveyance, mortgage, lease or other instrument purporting to transfer the property, shall be executed by the corporation or corporations until a Judge of the County Court of the County in which the house of refuge is situate shall have signified his approval of it by endorsement thereon.

Conveyance, mortgage, etc., to be approved by judge.

(5) Upon the death of the inmate, what remains of the property, after the claims thereon are fully paid and satisfied,

Transfer to personal representatives.

shall be transferred to his personal representatives. 2 Geo. V. c. 82, s. 12.

What accounts to be kept.

13. An account shall be kept of the cost of erecting, keeping, and maintaining the house of refuge, and of all materials furnished therefor, together with the names of the persons received into, and of those discharged from it, and also of the earnings of the inmates, and such other accounts as may be prescribed by the Lieutenant-Governor in Council. 2 Geo. V. c. 82, s. 13.

Who may be committed to house of refuge.

14.—(1) Any person authorized for that purpose by by-law of a corporation which has established or joined in establishing a house of refuge may, by writing under his hand, commit to such house of refuge:

- (a) Poor and indigent persons who are incapable of supporting themselves;
- (b) Persons without the means of maintaining themselves and able to work, who do not do so;
- (c) Feeble-minded persons not fit subjects for commitment to Hospitals for the Insane, or to Hospitals for Idiots, but for whom special custodial care is necessary.

Punishment of refractory inmates.

(2) Every inmate of a house of refuge, if able to work, shall be kept diligently employed at labour, and if he does not perform such reasonable task or labour as may be assigned to him, or is stubborn, disobedient, or disorderly, he shall be liable to be punished in accordance with the rules and regulations of the house of refuge. 2 Geo. V. c. 82, s. 14.

Special provision as to detention of feeble minded female inmate.

15. Where the physician having the care of the health of the inmates of a house of refuge certifies that a female inmate between the ages of 16 and 45 years, on account of natural imbecility, is so feeble-minded as to render it probable that she would be unable to care for herself if discharged from such house of refuge she shall not be discharged until such physician, with the approval of one of the Inspectors of Prisons and Public Charities, orders her discharge. 2 Geo. V. c. 82, s. 15.

Prohibition as to children of certain ages.

16. No child between the ages of two and sixteen years shall be received, held, boarded or lodged in a house of refuge. 2 Geo. V. c. 82, s. 16.

Inspection of houses of refuge.

17. One of the Inspectors of Prisons and Public Charities shall, at least once in every year, inspect every house of refuge and all books and documents relating to it, and examine into its sanitary condition, and shall report to the Provincial Secretary as to its management, and make such recommendations and suggestions in relation to it and to the method of keeping its books and accounts as he may deem

advisable, and a copy of such report shall be sent to the clerk of the council of every municipality having an interest in the house of refuge. 2 Geo. V. c. 32, s. 17.

PART II.

18.—(1) The Lieutenant-Governor in Council may direct that there shall be paid out of the Consolidated Revenue Fund to every county which establishes a house of refuge under this Act, and acquires not less than forty-five acres of land for use and uses it in connection therewith, a sum not exceeding one-fourth of the total amount expended by the corporation for such purpose, but not exceeding \$4,000. Aid to counties establishing houses of refuge.

(2) Where two or more municipal corporations establish a joint house of refuge under this Act and have acquired not less than forty-five acres of land for use and use it in connection therewith, the Lieutenant-Governor in Council may direct that there shall be paid out of the Consolidated Revenue Fund a like sum to the corporation designated in the agreement for establishing the house of refuge as the one to which the grant is to be paid. Case of joint establishment.

(3) Where there has been paid to a corporation in respect of a house of refuge a sum less than \$4,000 and thereafter additional land has been or is acquired for, or additional buildings have been or are erected in extending or improving such house of refuge, the Lieutenant-Governor in Council may direct that there shall be paid to such corporation out of the Consolidated Revenue Fund an amount which added to that already paid to it shall not exceed the sum which may be directed to be paid to a corporation under subsection 1. Further grant where corporation paid less than \$4,000.

(4) An Order in Council shall not be passed until one of the Inspectors of Prisons and Public Charities has reported that the land and buildings are suitable for the purpose intended and are ready for occupation. Report of Inspector.

(5) Every Order in Council shall, as soon as conveniently may be, be laid before the Assembly, and no such order shall be operative until it has been ratified by the Assembly. 2 Geo. V. c. 82, s. 18. Order in Council to be ratified by Assembly.

CHAPTER 291.

An Act respecting Houses of Refuge in Provisional Judicial Districts.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The District Houses of Refuge Act*. 2 Geo. V. c. 83, s. 1.

Interpretation,
"District."

2. In this Act "District" shall mean a Provisional Judicial District. 2 Geo. V. c. 83, s. 2.

How established.

3. A House of Refuge may be established, erected and maintained in a District when a by-law authorizing the same has been passed in a majority of the organized municipalities of such District. 2 Geo. V. c. 83, s. 3.

Joint Houses
of Refuge.

4. Two or more contiguous Districts, when by-laws authorizing the same have been passed in a majority of the organized municipalities in each of such Districts, may agree to unite in establishing a joint House of Refuge. 2 Geo. V. c. 83, s. 4.

Approved by
Lieutenant-Governor.

Board of
management.

5. When such by-laws have been passed certified copies shall be transmitted to the Provincial Secretary for the approval of the Lieutenant-Governor in Council, and, if approved of, a Board of Management shall be appointed as hereinafter provided. 2 Geo. V. c. 83, s. 5.

How composed.

6.—(1) The Board of Management shall be a corporation and shall consist of two persons resident in the District, and shall be appointed by the Lieutenant-Governor in Council for a term of three years, and in the case of contiguous Districts agreeing to join in a joint House of Refuge, the Board shall consist of two persons resident in each of the Districts appointed by the Lieutenant-Governor in Council for a term of three years.

Term of
office.

(2) The members of the Board shall hold office for a term of three years and until their successors are appointed. 2 Geo. V. c. 83, s. 6.

Site for
house.

7. The Board shall select the site for the House of Refuge, which shall be inspected by one of the Inspectors of Prisons and Public Charities and approved by the Lieutenant-Governor in Council. 2 Geo. V. c. 83, s. 7.

8. The Board shall have charge of the erection and maintenance of the House of Refuge and shall have the same powers as provided for in sections 7 and 8 of *The Houses of Refuge Act*. 2 Geo. V. c. 83, s. 8.

Powers of Board.
Rev. Stat. c. 290.

9. The Board shall have the powers which are conferred upon the council of a county by sections 9, 10, 11, 12, 14, 15 and 16 of *The Houses of Refuge Act*, and those sections so far as applicable to a house of refuge established by a county shall apply to a house of refuge established under this Act. 2 Geo. V. c. 83, s. 9.

Powers of County Councils conferred on Boards of management.
Rev. Stat. c. 290.

10. The Lieutenant-Governor in Council may direct that there be paid out of the Consolidated Revenue Fund to the Board of each House of Refuge erected in a District, and which has acquired not less than forty-five acres of land and uses it in connection therewith, a sum not exceeding \$4,000. 2 Geo. V. c. 83, s. 10.

Grant from Consolidated Revenue Fund to Board of management.

11. Where two or more Districts establish a joint House of Refuge under this Act and have acquired one hundred acres of land and use it in connection therewith, the Lieutenant-Governor in Council may direct that there be paid to the Board out of the Consolidated Revenue Fund a sum not exceeding \$4,000 for each District uniting in the establishment of such joint House of Refuge. 2 Geo. V. c. 83, s. 11.

In the case of a Joint House.

12. The amount of the grant shall not in the case of a House of Refuge established for a District exceed the amount levied and collected in such District for the purpose of the establishment and erection of the House of Refuge, and in the case of a joint House of Refuge the aggregate of the amounts levied and collected for such purpose in the Districts by which the House of Refuge is established. 2 Geo. V. c. 83, s. 12.

Assessment for maintenance.

13.—(1) The cost of establishing, erecting and maintaining a House of Refuge shall be defrayed by the corporations of the organized municipalities in the Districts by which it is established in proportion to the amount of their assessment according to the last revised assessment roll, and by the rate-payers in school sections in unorganized townships in proportion to the amount of the assessment for school purposes.

Providing cost of maintenance.

(2) In unorganized townships the amount required to be raised for the purposes of this Act shall be apportioned by the Board among the different school sections in proportion to their respective assessments for school purposes, and shall be assessed, levied and collected by the same persons, in the same manner and at the same times as rates for school purposes, and shall when collected be paid over to the Board; and the provisions of law with respect to school taxes in unorganized townships shall, so far as practicable, apply *mutatis mutandis* to the rates levied under this Act.

Apportionment of amount.

In unorganized townships, etc.

In organized townships.

(3) The Board shall in each year apportion the amount which it estimates will be required to defray the expenditure for that year among the organized municipalities and school sections liable to pay the same, and shall on or before the 31st day of January notify the clerk of each municipality, and in unorganized townships the secretary of each school board, of the amount to be provided, and each municipality and school section in unorganized municipalities shall pay such amount to the Board on demand, and shall include the same in its estimates for the then current year and levy and collect the same in like manner as taxes are levied and collected. 2 Geo. V. c. 83, s. 13.

Notice of amount to be provided.

Aid from Legislative grants. Rev. Stat. c. 300. Rate.

14. A House of Refuge established under this Act shall be entitled to receive aid under *The Hospitals and Charitable Institutions Act* at the rate of seven cents per day for each inmate while he is maintained therein. 2 Geo. V. c. 83, s. 14.

Accounts to be submitted and audited.

15. The accounts of a House of Refuge shall be submitted quarterly to one of the Inspectors of Prisons and Public Charities, and audited in the same manner as accounts relating to the Administration of Justice in Districts. 2 Geo. V. c. 83, s. 15.

CHAPTER 292.

An Act respecting Industrial Farms.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Industrial Farms Act*. Short title.
2 Geo. V. c. 78, s. 1.

2.—(1) The council of a city, or of a county, may pass Industrial Farms in city or county. by-laws for establishing, equipping and maintaining an Industrial Farm, which in the case of a city may be established within or without the limits of the city, and for acquiring the land required for that purpose.

(2) An Industrial Farm may be established in a Provisional Judicial District. Provisional Judicial District by the Lieutenant-Governor in Council. 2 Geo. V. c. 78, s. 2.

3. Persons who are convicted of offences against any Act Who liable to be committed. of this Legislature or against a municipal by-law, or who may be lawfully committed to it for offences against the criminal law may be committed to such Industrial Farm or may be transferred from the common gaol to it. 2 Geo. V. c. 78, s. 3.

4. In lieu of establishing separate Industrial Farms the Joint Industrial Farm. councils of two or three contiguous counties, or the councils of a city and county, may, with the approval in writing of one of the Inspectors of Prisons and Public Charities, enter into an agreement for the establishment, equipment and maintenance of, and may establish, equip and maintain a joint Industrial Farm. 2 Geo. V. c. 78, s. 4.

5. An Industrial Farm shall not be established until the Site and plans must be approved and approval published. site and the plans for the buildings to be erected thereon have been approved by the Lieutenant-Governor in Council on the recommendation of one of the Inspectors of Prisons and Public Charities, and notice of such approval has been published in the *Ontario Gazette*. 2 Geo. V. c. 78, s. 5.

6. The sheriff of the county, district or city for which an Supervision of farms and appointment of Superintendent and Officers. Industrial Farm has been established, or where a joint Industrial Farm has been established, the sheriff of the county in which it is located, shall have the supervision of the Industrial Farm and shall, with the approval of the Lieuten-

ant-Governor in Council, appoint a superintendent and such other persons as may be required for its care and management, at such salaries, and with such privileges, as may be fixed by the Lieutenant-Governor in Council. 2 Geo. V. c. 78, s. 6.

Rules and regulations by Order-in-Council.

7. Rules and Regulations for the government and conduct of Industrial Farms, and the care of the inmates, may be made by the Lieutenant-Governor in Council. 2 Geo. V. c. 78, s. 7.

Agreements for extending sewerage system to Industrial Farm.

8.—(1) The council of a city or county which has established an Industrial Farm, and the council of another municipality may from time to time enter into agreements for connecting the Industrial Farm with the sewerage system of such municipality, and may pass all by-laws and do all things necessary to carry the agreement into effect.

Contracts for supplying water and electric light and power.

(2) The council of a city or county may also contract with The Hydro-Electric Power Commission, or with any municipal corporation, company or individual, owning or operating a waterworks system or works for the production and supply of electricity for light, heat or power in such city or municipality, for the supply of water for domestic purposes and for fire protection, or of electricity for light, heat or power purposes at the Industrial Farm.

Power to carry necessary works over intervening lands.

(3) For the purpose of connecting such Industrial Farm with such sewerage or waterworks system or electrical works or with the system of The Hydro-Electric Power Commission the corporation of such city or county, its officers, servants, agents or workmen may enter upon and pass over any lands or highways lying between such Industrial Farm and the point of connection; and may dig up such lands and highways, and construct sewers and lay down any pipes and place all necessary poles, wires and appliances and do all necessary work in or upon such lands and highways, making due compensation to the owners as provided by *The Municipal Act*.

Rev. Stat. c. 192.

Powers of corporations establishing a joint industrial farm.

(4) Where two or more municipal corporations have established a joint Industrial Farm, they shall have, in respect of such Industrial Farm, all the powers conferred upon the council of a city or county by this section. 2 Geo. V. c. 78, s. 8.

Assent of electors to borrowing for Industrial Farm not required.

9. It shall not be necessary to obtain the assent of the electors to a by-law for raising such sums as may be required for the purchase of a site or the erection or equipment of buildings for an Industrial Farm, or the acquiring of land to be used in connection therewith, or for any addition to or improvement of such buildings or equipment, or for the purpose of any works authorized by section 8; but the amount owing, in respect of the same, shall not at any time exceed \$50,000. 2 Geo. V. c. 78, s. 9.

10. The regulations may provide for requiring every person sent to the Industrial Farm to perform such work or service, at such times, for such hours, and at such trade or labour as he may appear to be fit for, and for buying material therefor, and for selling the articles manufactured or produced therefrom, and for applying the earnings, or part of the earnings of such person, for his maintenance or for the maintenance of his wife, children or other dependent members of his family, or for the general maintenance of the Industrial Farm, or towards aiding such person to reach his friends, or any place to which it may be deemed advisable to send him upon his discharge. 2 Geo. V. c. 78, s. 10.

Power to
compel per-
sons sent to
Industrial
Farm to
work.

11. The Sheriff having the supervision of an Industrial Farm may transfer from the common gaol to the Industrial Farm any person who, by section 3, may be committed to an Industrial Farm. 2 Geo. V. c. 78, s. 11.

Sheriff may
transfer
from gaols.

12.—(1) The cost of the maintenance of an Industrial Farm, including the salaries of the superintendent and the officers and servants thereof, and of the persons committed to it, and all other expenses incidental thereto, and to the transfer of persons to it, shall be paid and borne in the same manner and by the same corporations and in the same proportion between them as if the Industrial Farm were a common gaol.

Cost of
maintenance
of Industrial
Farm.

(2) In the case of a joint Industrial Farm, the corporations by which it is established shall provide by the agreement as to the proportions in which the costs and expenses mentioned in subsection 1 shall be borne by them respectively, and by which of them they shall be paid in the first instance, and the terms of any such agreement may be varied from time to time as occasion may require; and if the corporations are unable to agree as to the variation the same shall be determined by arbitration under *The Municipal Act*; but no such variation except by agreement shall be made oftener than once in every five years. 2 Geo. V. c. 78, s. 12.

In the case
of joint
farms.

Rev. Stat.
c. 192.

13. The superintendent of every Industrial Farm shall on the first day of each month transmit by registered post to one of the Inspectors of Prisons and Public Charities a report showing the number of inmates committed to the Industrial Farm during the preceding month, together with such other particulars as he may require. 2 Geo. V. c. 78, s. 13.

Monthly
reports by
Superintendent.

14. The statement shall be promptly forwarded, with the recommendation of one of the Inspectors of Prisons and Public Charities and the superintendent of the Industrial Farm, to the Ontario Board of Parole for consideration and action thereon. 2 Geo. V. c. 78, s. 14.

Submission
to Board of
Parole.

Probation
officers.

15. The council of a city or of a county having an Industrial Farm may pass by-laws appointing Probation Officers who are connected with any police force for the purpose of aiding and assisting in the reform of such persons as may from time to time be discharged on parole from an Industrial Farm under recommendation of the Ontario Board of Parole. 2 Geo. V. c. 78, s. 15.

Inspection
visits and
reports
thereon.

16. One of the Inspectors of Prisons and Public Charities shall, at least twice in every year, inspect every Industrial Farm and all books and documents relating to it and examine into its condition and management, and shall report thereon to the Provincial Secretary, and make such recommendations and suggestions in relation to it and to the method of keeping its books and accounts as he may deem advisable; and a copy of such report shall be sent to the sheriff having the supervision of, and to the clerk of the council of every municipality having an interest in, the Industrial Farm. 2 Geo. V. c. 78, s. 16.

CHAPTER 293.

An Act respecting Gaols.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Gaols Act*. 3-4 Geo. V. Short title. c. 81, s. 1.

2. In this Act, Interpreta-
tion.

(a) "Inspector" shall mean the Inspector of Prisons and Public Charities, to whom the duty of inspecting gaols is assigned by the Lieutenant-Governor in Council; "Inspector."

(b) "Minister" shall mean the member of the Executive Council charged for the time being with the administration of this Act. 3-4 Geo. V. c. 81, s. 2. "Minister."

3. All gaols in Ontario shall be prisons of the Supreme Court. 3-4 Geo. V. c. 81, s. 3. Prisons of
Court.

[See also *The Municipal Act*, R.S.O. c. 192, ss. 375-388.]

GAOLS IN PROVISIONAL JUDICIAL DISTRICTS.

4.—(1) Every gaol erected in a provisional judicial district under the authority of the Lieutenant-Governor in Council, or any building so declared so to be by the Lieutenant-Governor in Council, shall be a common gaol of the District. Gaols,
in judicial
districts.

(2) The common gaols and the industrial farms in the several districts shall be respectively common gaols and industrial farms for all the districts, and any court or magistrate may direct the committal to any of them, either for safe custody or for punishment of any person who may be lawfully committed by such court or magistrate to the common gaol or industrial farm of the district in which the order for committal is made. 3-4 Geo. V. c. 81, s. 4. Gaols and
industrial
farms common
for all the
districts.

5. Any person imprisoned in a lock-up in a district may be transferred by order of an Inspector to the common gaol in the district town of the district. 3-4 Geo. V. c. 81, s. 5. Transfer
from lock-
up to com-
mon gaol.

6. The Lieutenant-Governor may appoint a gaoler of every common gaol, who shall perform all the duties and be under and subject to all the liabilities that the gaolers of the common gaols in counties perform and are subject to and shall Appoint-
ment of
gaoler.

give such security for the due performance of the duties of his office as the Lieutenant-Governor in Council from time to time prescribes; and every such gaoler shall be paid out of money appropriated by this Legislature and voted by the Assembly for that purpose, such sums of money annually as the Lieutenant-Governor in Council may think reasonable for the services performed. 3-4 Geo. V. c. 81, s. 6.

Vacancy.

7.—(1) In case of a vacancy the sheriff shall appoint some proper person to act as gaoler until an appointment is made by the Lieutenant-Governor in Council.

When
sheriff to
be *ex-officio*
gaoler.

(2) The Lieutenant-Governor in Council may, upon the application of the sheriff, declare that the public interests do not require that another gaoler of the gaol at the district town shall be appointed, and thereupon the sheriff shall be *ex-officio* gaoler of such gaol, and shall perform all the duties and shall be subject to all the liabilities of the office. 3-4 Geo. V. c. 81, s. 7.

ESTABLISHMENT AND MAINTENANCE OF GAOLS.

Plans.

8. Every gaol shall be constructed and built according to a plan to be approved of by the Inspector, and sanctioned by the Lieutenant-Governor in Council; and no gaol built after the 4th day of March, 1868, in any county, otherwise than according to a plan so approved and sanctioned, or which does not, after its completion, receive the approval of the Inspector, shall be deemed to be in law the gaol of such county. 3-4 Geo. V. c. 81, s. 8.

Considera-
tion of
plans.

9. The Inspector, before deciding upon the plan of a gaol most proper to be adopted, or approving a gaol after its completion, shall take into consideration

Particulars.

- (a) the nature and extent of the ground upon which the gaol has been or is to be built;
- (b) its relative situation to any street and buildings, and to any river or other water supply;
- (c) its comparative elevation and capability of being drained;
- (d) the material of which it has been or is to be constructed;
- (e) the necessity of guarding against cold and dampness, and of providing properly for ventilation and light for each corridor;
- (f) the proper classification of prisoners, having regard to age, sex, and cause of confinement;
- (g) the best means of ensuring their safe custody without the necessity of resorting to severe treatment;

- (h) the due accommodation of the gaoler and turnkeys, so that they may have ready access to the prisoners and conveniently oversee them;
- (i) the prevention of any intercourse between prisoners and persons without the walls of the building;
- (j) the prevention of nuisances from whatever cause, and the necessity of providing proper and sufficient sanitary conveniences;
- (k) the combining provision, as well for the reformation of convicts, as far as may be practicable, as for their employment, in order that the gaol may really serve as a place of correction;
- (l) the admission of prisoners to air and exercise without the walls of the building; and
- (m) the enclosure of the yard and premises with a secure wall. 3-4 Geo. V. c. 81, s. 9.

10.—(1) If the Inspector at any time finds that the common gaol in any county or city is out of repair or is unsafe or unfit for the confinement of prisoners, or is not constructed or maintained in conformity with the provisions of the next preceding section, or does not afford sufficient space or room for the number of prisoners usually confined therein, he shall forthwith report the fact to the Lieutenant-Governor, and shall at the same time furnish a copy of such report to the council of such county or city.

Report to the Lieut.-Governor.

Copy for the municipal council.

(2) The council shall thereupon appoint a special committee to confer with the Inspector, and to arrange with him as to the repairs, alterations or additions that may be deemed necessary to remedy the defects reported upon, and to report the same to the council.

Conference with Inspector.

(3) If the Inspector and the committee do not agree upon what repairs, alterations and additions are necessary, the matter shall be referred to the Lieutenant-Governor in Council to decide, and his decision shall be reported to the council.

Case of disagreement.

(4) It shall be the duty of the council, by by-law, to provide for the making of the repairs, alterations or additions so arranged for and reported or decided upon, and for the appropriation of any money that may be required for that purpose, and in default thereof the council may be proceeded against at the instance and prosecution either of the Attorney-General of Ontario or of any private prosecutor, to compel the making by the council of such repairs, alterations or additions.

By-law for repairs.

Proceedings in default.

(5) The Inspector and the special committee of the county or city council shall, in arranging the particulars of the necessary repairs, alterations or additions, have due regard to the plan of the gaol and to the ability of the council to meet the

Repairs to be proportioned to circumstances and resources of council.

expense thereof, and in the case of alterations or additions, shall make the same as few and inexpensive as, in their opinion, the requirements of this Act and of the public service will admit. 3-4 Geo. V. c. 81, s. 10.

VACANCY IN OFFICE OF COUNTY GAOLER.

Duty of
Inspector
when
vacancy
occurs.

11.—(1) Where a vacancy occurs in the office of gaoler of any county gaol, and the number of prisoners who have been confined in such gaol during the three years ending on the 31st of December immediately preceding the occurrence of such vacancy did not exceed on an average six per diem in any of such years, it shall be the duty of the Inspector, to issue and transmit to the county council his certificate to that effect, and he shall also notify the sheriff of the county that the gaol may be made subject to the provisions of this section.

Notice to
sheriff.

Power of
county
council.

(2) The council may, after the receipt of such certificate, and within three months after the occurrence of such vacancy, or at the next meeting of the council thereafter, by resolution declare that the public interests do not require the appointment of a gaoler.

Sheriff
may agree
to act as
gaoler.

(3) The sheriff may thereupon agree with the council to act as gaoler and for the remuneration to be allowed him for the performance of the duties of gaoler, and in that event it shall not be necessary for the sheriff to appoint a gaoler, but he shall himself be *ex-officio* the gaoler and shall, with such assistance as he deems necessary perform all the duties and be subject to all the responsibilities of the office.

His duty.

Sheriff may
appoint
gaoler pro
tem or
act himself.

(4) Pending the action of the council, the sheriff may either make a temporary appointment of a gaoler, or may elect himself to perform the duties of the gaoler, in which case he shall be *ex-officio* gaoler and shall perform all the duties and shall be subject to all the liabilities of the office.

Sheriff must
appoint
if council
fails to act.

(5) If the council does not within the time thereby limited, pass the resolution mentioned in subsection 2, the sheriff shall forthwith thereafter appoint the temporary gaoler or some other proper person to be the gaoler.

Salary of
temporary
gaoler or
sheriff.

(6) The temporary gaoler or the sheriff, while acting under subsection 4, shall be paid at the same rate of salary as was paid to the gaoler who held the office previous to the occurrence of the vacancy. 3-4 Geo. V. c. 81, s. 11.

TRANSFER OF PRISONERS TO GAOL OF AN ADJOINING COUNTY.

When an
agreement
for transfer
may be
made.

12.—(1) Where the number of prisoners confined in the gaol of any county during two years does not exceed on an average four per diem for either of such years and the Inspector reports to the Lieutenant-Governor that it would be

proper that an agreement should be made for keeping the prisoners of such county in the gaol of an adjoining county, the council of the first mentioned county may agree with the council of the adjoining county for keeping and maintaining such prisoners in the gaol of the adjoining county.

(2) The two years shall be the two years ending on the 31st day of December, immediately preceding the making of the agreement. 3-4 Geo. V. c. 81, s. 12. How average reckoned.

13. If such agreement is made, the Lieutenant-Governor in Council may sanction the same and shall issue a proclamation declaring that from a day to be named therein the gaol of the adjoining county shall also be the common gaol of the first mentioned county, and it shall so continue from that day until the Lieutenant-Governor in Council issues a proclamation terminating the agreement. 3-4 Geo. V. c. 81, s. 13. Sanction by Lieutenant-Governor in Council.

14.—(1) No such first mentioned proclamation shall be issued unless there is direct railway communication between the county towns of the two counties, nor until the Inspector has reported that a sufficient lock-up for the safe custody of prisoners held or committed for trial in the first mentioned county or in custody prior to their committal for trial or pending their removal to the county gaol, The Reformatory for Ontario or Penitentiary has been provided in or near the county town of the first mentioned county. Pre-requisites to sanction. Lock-up to be maintained in transferring county.

(2) Nothing in this section shall prevent the imprisonment of any such prisoner in the gaol of the adjoining county where the committing magistrate or the sheriff in charge deems it expedient that he should be imprisoned therein. Magistrate may commit to gaol of adjoining county.

(3) The lock-up may be either the building theretofore used as the gaol of the first mentioned county or part thereof or some other building approved by the Inspector. 3-4 Geo. V. c. 81, s. 14. Lock-up.

15. The county at whose instance such first mentioned proclamation has been issued shall bear all expenses incurred in respect of the conveying of any prisoners to or from the gaol of the adjoining county in excess of those which would have been incurred had the prisoners been detained in a gaol in the county town of the first mentioned county. 3-4 Geo. V. c. 81, s. 15. Expenses of transferring prisoners.

16. It shall be the duty of the county council to see that the lock-up is always kept in a proper condition for the reception of prisoners, and if the county council fails so to keep the same the sheriff shall at the cost of the county do what is necessary in that behalf. 3-4 Geo. V. c. 81, s. 16. Duty of county council as to lock-up.

17.—(1) An agreement made under section 12 shall continue, subject to any variation of the terms thereof by mutual Term for which agreement to be made.

Rev. Stat.
c. 192.

agreement, for five years, and shall after such five years continue until varied by agreement, or if the councils are unable to agree, until varied by arbitration under *The Municipal Act*, but either council may at any time apply to the Lieutenant-Governor in Council to terminate the agreement.

How terminated.

(2) The Lieutenant-Governor in Council may terminate the agreement upon the application of either of the councils interested or of his own motion from a day to be named in his proclamation in that behalf and from such day the gaol of the adjoining county shall cease to be the common gaol of the first mentioned county. 3-4 Geo. V. c. 81, s. 17.

Effect of proclamation as evidence.

18. The issue of a proclamation under this Act shall be conclusive evidence that the events have happened and that the conditions exist which authorize the issue thereof. 3-4 Geo. V. c. 81, s. 18.

Powers of Lieutenant-Governor in Council.

19.—(1) The Lieutenant-Governor in Council shall, with respect to persons in custody undergoing imprisonment for offences against any law of Ontario or a by-law, or charged with any such offence, or for whose arrest a warrant has been issued, have all the powers conferred upon him in respect of offences against the laws of Canada by *The Prisons and Reformatories Act* of Canada, the provisions of which shall *mutatis mutandis* apply.

R.S.C. 1906,
c. 148.

Cost of maintenance of prisoner.

(2) The cost of the maintenance of a prisoner, transferred under the authority of this section, shall be paid and borne by the corporation of the county from the gaol of which he is transferred, and in case of dispute as to the amount which is payable, shall be determined by the Inspector.

And of his transfer.

(3) The expenses of the transfer of a prisoner under this section or under *The Prisons and Reformatories Act* shall be paid by the corporation of the county from the gaol of which the prisoner is transferred.

How settled.

(4) In case of dispute as to the amount payable under this or the preceding subsection the same shall be determined by the Inspector. 3-4 Geo. V. c. 81, s. 19.

Detention in gaol pending removal to reformatories.

20. Any person sentenced to imprisonment in the Reformatory for Ontario or in the Andrew Mercer Ontario Reformatory for Females, may be detained in the common gaol until the proper officer requires the delivery to him of such person for conveyance to the Reformatory in which he or she is to be imprisoned. 3-4 Geo. V. c. 81, s. 20.

REMOVAL OF PERSONS TO PROVINCIAL INSTITUTIONS.

Appointment of bailiffs.

21.—(1) The Lieutenant-Governor in Council may appoint provincial bailiffs, male or female, who shall be employed for the purpose of conveying any person confined in any of the

common gaols of Ontario or other place of custody and liable to be removed from thence to any provincial institution in which such person is lawfully directed to be confined, and also in the performance of such other duties as may be assigned to them by the Inspector.

(2) The Inspector may authorize the employment of a suitable person to act as a temporary bailiff; and such temporary bailiff shall have the same powers and may perform the same duties as a provincial bailiff and shall be paid for such temporary services as the Provincial Secretary may direct. Temporary bailiffs.
3-4 Geo. V. c. 81, s. 21.

22. Any such bailiff may convey any person from the gaol or other place of custody to such provincial institution without further authority than the warrant of the Inspector, which shall be issued in duplicate; and such person shall be received into such institution and there detained subject to the rules, regulations and discipline thereof until discharged by due course of law or removed under competent authority. Warrant for removal.
3-4 Geo. V. c. 81, s. 22.

23. The bailiff, in the conveyance of such person to any of such provincial institutions, may secure and convey him in and through any county or district through which such bailiff may have to pass, and until such person has been delivered to and placed in such institution, such bailiff shall have, in every part of Ontario, the same power and authority over and with regard to him, and to command the assistance of any person to prevent his escape, and to recapture him in case of an escape, as the sheriff of the county or district in which he was convicted or confined would have had in conveying him from one part to another of that county or district. Powers of bailiffs.
3-4 Geo. V. c. 81, s. 23.

24. The bailiff shall give to the sheriff or gaoler one of the duplicates of the warrant and a receipt for every person delivered to him, and shall thereupon with all convenient speed convey and deliver up such person with the other duplicate to the superintendent or other official head of such provincial institution, who shall give his receipt in writing for every such person so received by him to such bailiff, and every such person shall be kept in such institution until discharged by due course of law or removed under competent authority. Bailiffs to give and take receipts for persons in their charge.
3-4 Geo. V. c. 81, s. 24.

25.—(1) The county, or other municipality, in which the gaol or other place of custody is situate and from which such person is removed by such bailiff, shall be liable to pay to the Treasurer of Ontario, on demand, the expenses incurred in the removal and conveyance of such person, together with sixty per centum added thereto. Expenses of removal.

How borne.

(2) Where a gaol is maintained jointly by a city and county, or in the case of a town separated from a county, the county shall be deemed to be the municipality in which the gaol is situate, and the city or town shall pay its just proportion of such expenses and additional percentage, and if not mutually agreed upon, the same shall be determined by arbitration as provided by *The Municipal Act*. 3-4 Geo. V. c. 81, s. 25.

Rev. Stat.
c. 192.

EMPLOYING PRISONERS WITHOUT THE WALLS OF COMMON GAOLS.

Employ-
ment of
prisoners
outside gaol.

26. The Lieutenant-Governor in Council may direct or authorize the employment beyond the limits of the common gaol upon any work or duty, the nature of which is specified in the Order in Council, of any person who is sentenced to be imprisoned with hard labour in such gaol under the authority of any statute of Ontario or for the breach of a by-law of any municipal corporation or board of commissioners of police. 3-4 Geo. V. c. 81, s. 26.

Discipline
of gaol to
be observed
during em-
ployment.

R.S.O. 1906,
c. 148.

27. Every such prisoner shall, during such employment, be subject to the rules, regulations and discipline of the gaol, and to any regulations made by the Lieutenant-Governor in Council under *The Prisons and Reformatories Act* of Canada or any Act thereby consolidated, for preventing escapes and preserving discipline. 3-4 Geo. V. c. 81, s. 27.

Supervision.

28. No such prisoner shall be so employed, except under the strictest care and supervision of officers appointed to that duty. 3-4 Geo. V. c. 81, s. 28.

What to be
deemed
part of gaol.

29. Every street, highway or public thoroughfare on which prisoners may pass in going to or returning from their work, and every place where they may be employed under this Act, shall, while so used, be deemed to be a part of the gaol for the purposes of this Act. 3-4 Geo. V. c. 81, s. 29.

Division
of earnings
of prisoners.

30.—(1) An account shall be kept of the amount earned by the labour of prisoners imprisoned in any common gaol, and such amount shall be divided between the Province and the county in proportion to the amount contributed by them respectively towards the care and maintenance of the prisoners.

How and
when made.

(2) The division shall be made by such officer, or other person, and at such time as the Lieutenant-Governor in Council shall direct. 3-4 Geo. V. c. 81, s. 30.

Division
of earnings
between
county and
city or
towns.

31. In the case of a county in which a city or separated town is situate, the share of such earnings which the city or town shall be entitled to receive from the county shall, in case the councils are unable to agree, be determined annually by arbitration under the provisions of *The Municipal Act*. 3-4 Geo. V. c. 81, s. 31.

PROHIBITION OF INTOXICATING LIQUORS.

32.—(1) No gaoler, keeper or other officer of any gaol, lock-up or industrial farm shall sell, lend, use, or give away, or knowingly permit or suffer any intoxicating liquors in the meaning of *The Liquor License Act*, to be sold, used, lent or given away to any prisoner or to any person committed to an industrial farm, or to be brought into the same, other than as may be prescribed by or given by the direction of a legally qualified medical practitioner.

No intoxicating liquors to be given to prisoners by officers. Rev. Stat. c. 215.

(2) No person shall give, convey or supply to any prisoner confined in any gaol or industrial farm, any intoxicating liquor within the meaning of *The Liquor License Act*, otherwise than as authorized by this Act.

Or by any person.

(3) Every person who contravenes this section shall incur a penalty of \$100 recoverable under *The Ontario Summary Convictions Act*.

Penalty. Rev. Stat. c. 90.

(4) For a second offence of the like nature by such gaoler, keeper, or other officer, he shall also forfeit his office.

Second offence by officer. 3-4 Geo. V. c. 81, s. 32.

CHAPTER 294.

An Act respecting the Erection of Court Houses
in Territorial Districts.

HIS MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

Short title.

1. This Act may be cited as *The District Court Houses Act*.
3-4 Geo. V. c. 82, s. 1.

Buildings
for hold-
ing courts
to be court
houses.

2. Any building now or hereafter erected and provided
under the authority of the Lieutenant-Governor in Council
in the district town of any territorial district for the pur-
pose of holding courts therein shall be the Court House of
such district. 3-4 Geo. V. c. 82, s. 2.

Regulations.

3. The Lieutenant-Governor in Council may prescribe
regulations for the construction, management, inspection and
repair of such court house. 3-4 Geo. V. c. 82, s. 3.

CHAPTER 295.

An Act respecting Provincial Hospitals for the Insane and the Custody of Insane Persons.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Hospitals for the Insane* Short title.
Act. 3-4 Geo. V. c. 83, s. 1.

2. In this Act, Interpretation—

- (a) "Father" shall include stepfather and "mother" shall include stepmother; "Father"
"Mother."
- (b) "Hospital" shall mean a provincial institution for the care and treatment of insane persons; "Hospital."
- (c) "Inspector" shall mean the Inspector designated by the Minister to inspect hospitals and public charities, under *The Prisons and Public Charities Inspection Act*, to whom is assigned the duty of inspecting provincial hospitals for the insane; "Inspector."
Rev. Stat. c. 301.
- (d) "Minister" shall mean the member of the Executive Council charged for the time being with the administration of this Act; "Minister."
- (e) "Patient" shall mean any insane person committed to or detained in a hospital; "Patient."
- (f) "Prescribed form" shall mean the form prescribed by the Regulations; "Prescribed form."
- (g) "Regulations" shall mean regulations made by the Lieutenant-Governor in Council under the authority of *The Prisons and Public Charities Inspection Act*, 3-4 Geo. V. c. 83, s. 2. "Regulations."
Rev. Stat. c. 301.

3. The Hospitals at Toronto, London, Kingston, Hamilton, Mimico, Brockville, Penetanguishene, Cobourg and Orillia, and any other hospital hereafter established for the custody and treatment of insane persons, and all the property and effects real and personal belonging thereto, shall be vested in the Crown. 3-4 Geo. V. c. 83, s. 3. Certain hospitals vested in the Crown.

4. Such hospitals shall be called "The Hospital for the Insane, Toronto," or "The Hospital for the Insane, London," or as the case may be. 3-4 Geo. V. c. 83, s. 4. Designation of hospitals for insane.

OFFICERS.

Superintendent and officers, appointment of.

5.—(1) The Lieutenant-Governor in Council may from time to time appoint in each Hospital a superintendent and such medical and other officers as may be deemed necessary.

Duties of Superintendent.

(2) The superintendent shall be the chief executive officer and shall

- (a) direct and control the treatment of the patients;
- (b) hire and discharge from time to time the nurses, attendants and employees;
- (c) watch over the internal management, and maintain the discipline and due observance of the regulations prescribed for the government of hospitals for the insane;
- (d) direct the training of nurses in accordance with the syllabus approved by the Minister;
- (e) report conditions to the Inspector;
- (f) report annually to the Inspector upon the affairs of the hospital, with such suggestions as may in his opinion tend to its improvement. 3-4 Geo. V. c. 83, s. 5.

The Bursar, appointment and duties of.

6. The financial business and affairs of each hospital shall be conducted by an officer appointed by the Lieutenant-Governor in Council to be called "The Bursar," who shall

- (a) report the state of the income and expenditure of the hospital to the Inspector quarterly, and to the superintendent monthly;
- (b) perform such other duties as may be assigned to him under any regulations in force respecting hospitals for the insane, and in accordance with the direction of the Inspector. 3-4 Geo. V. c. 83, s. 6.

ADMISSION TO HOSPITALS FOR THE INSANE.

Requisites for admission.

7. No person shall be admitted into any hospital, except as a voluntary patient or upon the warrant of the Lieutenant-Governor, without the certificates, Form 1, of two legally qualified medical practitioners, accompanied by the family history in the prescribed form and the financial and estate history in the prescribed form, and upon notice having been received from the superintendent of the said hospital that there is a vacancy for the patient. 3-4 Geo. V. c. 83, s. 7.

Medical certificate.

8.—(1) Every such certificate shall state that the medical practitioner signing it personally examined the patient, separately from any other medical practitioner, and after due

enquiry into all necessary facts relating to the case of the patient found him to be insane.

(2) The medical practitioner shall also in the certificate state the facts upon which he has formed his opinion, distinguishing the facts observed by him from the facts communicated to him by others; and every such certificate shall be signed in the presence of two subscribing witnesses and shall bear date within three months of the time of the admission of the patient. 3-4 Geo. V. c. 83, s. 8.

Contents.

Signature and attestation.
Date.

9. The certificates, when accompanied by the forms mentioned in section 7, shall be sufficient authority to any person to convey the patient to the hospital and to the authorities thereof to detain him therein, or to the authorities of any other provincial hospital for the insane to which the patient may have been or may be removed by the order of the Inspector to detain him in such hospital as long as he continues to be insane. 3-4 Geo. V. c. 83, s. 9.

Effect of certificates as authority to detain.

10.—(1) Upon due application for the admission of a patient the superintendent and bursar of the hospital shall make a full and thorough enquiry respecting the estate, either in existence or in prospect, of the patient, and of its sufficiency, free from all other claims by his family, to supply the means necessary for his maintenance and clothing in the hospital as provided by the regulations.

Enquiry as to means of patient.

(2) The superintendent and bursar shall require from the father, mother or friends of the patient an agreement or bond to secure the payment of the patient's maintenance, either in whole or in part; and such agreement or bond shall continue in force so long as the patient is maintained in any provincial hospital for the insane.

Bond to secure payment.

(3) Where the obligation is for a limited period nothing herein shall extend the liability beyond the period limited.

Extent of obligation.

(4) The giving of an agreement or bond shall in no way release the estate of the patient from its obligation to maintain and clothe him in the hospital as hereinafter provided. 3-4 Geo. V. c. 83, s. 10.

Agreement not to be a release of estate of patient.

11.—(1) In any municipality where an insane person is in destitute circumstances and is a fit subject for hospital treatment application may be made to the head of the municipality for an examination to be made and certificates given in accordance with sections 7, 8 and 9, and the head of the municipality, if satisfied that the insane person is in destitute circumstances, shall immediately notify two legally qualified medical practitioners to make the required examination.

Examination of destitute insane persons.

(2) The council of the municipality shall pay to each of the medical practitioners for the examination and certificate a sum not exceeding \$5, and twenty cents for each mile

Expenses of examination.

necessarily travelled, and shall also pay the necessary expenses incurred in conveying the patient to a hospital.

Reimbursement.

(3) Such sum shall be reimbursed to the corporation of the municipality by the corporation of the county where the municipality is a part of the county for municipal purposes. 3-4 Geo. V. c. 83, s. 11.

ADMISSION OF VOLUNTARY PATIENTS.

Voluntary patients, how admitted.

12.—(1) The superintendent of the hospital may receive and detain therein as a patient any person suitable for care and treatment who voluntarily makes written application in Form 8, and whose mental condition is such as to render him competent to make application.

Limit of period of retention.

(2) A person so received shall not be detained more than five days after having given notice in writing of his desire to leave the hospital.

Clinical record.

(3) The superintendent shall within three days after the admission of the patient transmit to the Inspector the clinical record of such patient, and shall on the first day of each month transmit to the Inspector the names of all voluntary patients then remaining in the hospital. 3-4 Geo. V. c. 83, s. 12.

DANGEROUS INSANE PERSONS AND INSANE PRISONERS.

Apprehension of person believed to be insane and dangerous to be at large.

13.—(1) Where an information is laid before any justice of the peace that any person, within the limits of his jurisdiction, is or is suspected or believed by the person laying the information to be insane and dangerous to be at large, such justice may issue his warrant, Form 2, to apprehend such alleged insane person and to cause him to be brought before such justice or any other justice having jurisdiction in the locality.

Warrant to apprehend, form of.

(2) Every such warrant shall be under the hand and seal of the justice and may be directed to all or any of the constables or other peace officers of the locality within which the justice has jurisdiction, and shall name or otherwise describe the person against whom the information has been laid, and shall state that information has been laid on oath that such person is insane and dangerous to be at large.

Before whom returnable.

(3) The warrant shall order the person to whom it is directed to apprehend the person against whom the information has been laid and to bring him before the justice issuing the warrant, or before such other justice, in order that enquiry may be made respecting the sanity of such person and that he may be further dealt with according to law. 3-4 Geo. V. c. 83, s. 13.

14. Any person apparently insane and conducting himself in a manner which in a sane person would be disorderly may be apprehended without warrant by any constable or peace officer and detained in some safe and comfortable place, not being a gaol, lock-up, prison or reformatory until the question of his sanity is determined as prescribed by section 19. 3-4 Geo. V. c. 83, s. 14.

Apprehension without warrant.

15. Where the person alleged to be insane has been apprehended under a warrant or in the manner provided in the next preceding section, he shall be brought before a justice having jurisdiction in the locality in which such person was apprehended, and the justice may thereupon by his order, Form 3, direct that such alleged insane person be confined in some such safe and comfortable place, or in the custody of the constable or other person who apprehended him or such other safe custody as the justice deems fit, until the question of his sanity is determined; but in no case shall such alleged insane person be committed to any gaol, lock-up, prison or reformatory. 3-4 Geo. V. c. 83, s. 15.

Proceedings on apprehension.

Order.

16.—(1) The Minister may appoint one or more legally qualified medical practitioners in any territorial division for the purposes of this section.

Appointment of medical examiners.

(2) Immediately upon the apprehension of an alleged insane person the justice before whom he is brought shall notify one of such medical practitioners, if any have been appointed, and one other legally qualified medical practitioner, or if no medical practitioner has been so appointed the justice shall notify two legally qualified medical practitioners and shall cause an examination to be made in the manner provided in sections 7 and 8. 3-4 Geo. V. c. 83, s. 16.

Examination made by two medical practitioners.

17.—(1) The justice, in addition to the examination in the next preceding section prescribed, shall hear such evidence upon oath as may be adduced with reference to the insanity of the said alleged insane person and shall direct that enquiry be made as to his friends or relatives in order that the evidence of some person or persons who is or are acquainted with his family and previous habits may be had, and for the purpose of ascertaining whether the alleged insane person is possessed of any and what property, and where the same is situate, and also as to the number of persons, if any, dependent upon him for support, and to elicit as far as possible all information in respect to the matters mentioned in Form 7; but if the justice finds that such enquiries will be expensive or that sufficient information has been obtained by other means he shall not be required to make the enquiries by this section directed.

Hearing of evidence; enquiring among friends, etc.

Information required by.

(2) The justice may from time to time adjourn the enquiry and again commit to custody, as prescribed by section

Adjournment of enquiry.

15, until proper enquiry is made as directed by this section. 3-4 Geo. V. c. 83, s. 17.

Re-examination in case of disagreement.

18. Where the medical practitioners do not agree in opinion as to whether such person is or is not insane they or any of them may again examine him within one week after the first examination, and either of them may give a new certificate if upon such further examination he changes his opinion as to the mental condition of such person. 3-4 Geo. V. c. 83, s. 18.

Discharge when not found insane.

19. If, after reasonable enquiry has been made by the justice as herein directed, he is satisfied that such alleged insane person is not insane and dangerous to be at large the justice shall forthwith discharge such person, but if after such enquiry he is satisfied that such alleged insane person is insane and dangerous to be at large he shall certify accordingly, Form 4; but in every case, unless both the medical practitioners making the examination agree that such person is insane, the justice shall forthwith discharge him. 3-4 Geo. V. c. 83, s. 19.

Certificate by justice when person insane and dangerous to be at large.

Certificates, etc., to be sent by Justice to the Inspector.

20.—(1) The justice shall immediately transmit to the Inspector his certificate and the certificates of the medical practitioners and the information, warrant and depositions taken before him, accompanied by a written statement of the result of his enquiries as to the financial condition of such insane person and the person or persons legally liable for his maintenance, and as to the other matters mentioned in Form 7, so far as ascertained, and giving the present address of such insane person, and the name and address of the person in whose custody he is.

Inspector to make provision for removal to hospital.

(2) The Inspector, on receipt of such documents, shall at once arrange for the admission of such insane person to a hospital and shall issue a warrant in the prescribed form for his transfer thereto. 3-4 Geo. V. c. 83, s. 20.

Expenses determining insanity and conveying to hospital.

21.—(1) The costs properly incurred in determining the question of the sanity of an alleged insane person under the provisions of sections 13 to 25, including the fees, not exceeding \$5 each, and an allowance not exceeding twenty cents per mile for travelling expenses of the medical practitioners, and the necessary expenses of the removal and admission of such person to a hospital, and the expense, if any, of providing proper clothing for him shall be paid by the corporation of the county, city or separated town in which such person has been apprehended.

By whom payable.

When payable by county in which last resided, and recoverable therefrom.

(2) If such person had not, prior to his being apprehended, resided in such county, city or separated town for one year, but had resided for that period in some other county, city or separated town, then such expenses may be recovered back by the corporation of the county, city or separated town in which

such person was apprehended from the corporation of the county, city or separated town in which such person had last resided for one year; or if such person, although he had resided for one year in the county, city or separated town in which he was apprehended, had since such residence been a resident for one year in some other county, city or separated town, then in like manner such expenses may be recovered back by the corporation of the county, city or separated town in which such person was apprehended from the corporation of the county, city or separated town in which such person last resided for one year.

(3) Where the person certified by the justice to be insane and dangerous to be at large is not in destitute circumstances, the expenses referred to in subsection 1, paid by the corporation of any county, city or separated town in which such person has been apprehended, may be recovered by it from the estate of such person or from the person legally liable for his maintenance, and the same shall be a charge against the estate of such person or shall be paid by the person legally liable for his maintenance. 3-4 Geo. V. c. 83, s. 21.

When expenses may be recouped from estate.

22. A justice in making an inquiry shall have the like authority for compelling the attendance of witnesses as he would have if acting under *The Ontario Summary Convictions Act*, and all the provisions of that Act as to procedure shall apply as nearly as may be to proceedings under this Act, and an appeal from his certificate shall lie to the judge of the county or district court. 3-4 Geo. V. c. 83, s. 22.

Application of Summary Convictions Act.

Rev. Stat. c. 90.

23. The Lieutenant-Governor, upon such evidence of the insanity of any person imprisoned in any prison other than a penitentiary for an offence under the authority of any of the statutes of Ontario, or imprisoned for safe custody charged with an offence, or imprisoned for not finding bail for good behaviour or to keep the peace, as the Lieutenant-Governor considers sufficient, may by warrant order the removal of such insane person to a place of safe keeping; and such person shall remain there, or in such other place of safe keeping as the Lieutenant-Governor from time to time orders, until his complete or partial recovery is certified to the satisfaction of the Lieutenant-Governor who may then order such insane person back to imprisonment, if then liable thereto, or otherwise to be discharged. 3-4 Geo. V. c. 83, s. 23.

Removal of prisoners from gaols to hospitals for insane.

24.—(1) A judge or deputy judge of the county or district court of the county or district in which is situate the prison, not being a penitentiary, in which any person imprisoned for an offence is confined, if such person is in the opinion of the prison surgeon insane, may, and if required by the regulations shall, as soon as conveniently may be, cause to be made in respect of such prisoner inquiries similar to those directed to be made by sections 16 to 19.

Inquiries as to property, etc., of a person in gaol.

Application
of sections
20, 21 and
22.

(2) The provisions of sections 20, 21 and 22 shall apply *mutatis mutandis* to inquiries made under this section. 3-4 Geo. V. c. 83, s. 24.

Re-examina-
tion in case of
disagreement.

25. Where the judge and the medical practitioners, upon making a personal examination of the prisoner, do not agree in opinion as to whether he is or is not insane, they, or any of them, may again examine him and may give a new certificate if upon such further examination they change their opinion as to his mental condition. 3-4 Geo. V. c. 83, s. 25.

Order for
removal.

26. A warrant for the removal of any insane person to a hospital may be issued notwithstanding any irregularity or insufficiency in the warrant or order under which such person is imprisoned or confined or in any of the proceedings before the justice or the judge. 3-4 Geo. V. c. 83, s. 26.

DISCHARGE.

By whom.

27. Persons admitted to a hospital by warrant may be discharged by the Lieutenant-Governor, by the Inspector or by the superintendent in accordance with the Regulations. 3-4 Geo. V. c. 83, s. 27.

REMOVAL FROM A HOSPITAL FOR THE INSANE TO COUNTRY OF ORIGIN.

When re-
turn may
be ordered.

28. Upon its appearing to the Lieutenant-Governor that any insane person detained in a hospital has come or been brought into Ontario from elsewhere within thirty days prior to his committal to such hospital, the Lieutenant-Governor may, by his warrant, authorize the removal of such person to the province or country from which he has so come or been brought. 3-4 Geo. V. c. 83, s. 28.

ESCAPE AND RECOMMITTAL.

Apprehen-
sion on es-
cape from
hospital for
the insane.

29. If a patient escapes from a hospital any officer or servant of the hospital, or any other person at the request of any such officer or servant, may without warrant within forty-eight hours after such escape, and within one month after such escape where a warrant in the prescribed form has been issued by the superintendent, retake such escaped person and return him to the hospital; and the patient shall remain in custody therein under the authority by virtue of which he was detained prior to the escape. 3-4 Geo. V. c. 83, s. 29.

DISCHARGE ON PROBATION.

Delivery of
patient
to custody
of his
friends.

30.—(1) If the superintendent considers it conducive to the recovery of any person detained in the hospital that he should be committed for a time to the custody of his friends the superintendent may allow him to return on trial to them

upon receiving a written undertaking in the prescribed form by one or more of the friends of such person that he or they will keep an oversight over him.

(2) Nothing in this section shall authorize the temporary discharge of any person imprisoned for an offence the period of whose sentence has not expired. 3-4 Geo. V. c. 83, s. 30. Cases of imprisonment for offences excepted.

31. If within six months from such temporary discharge the patient again becomes dangerous to be at large, the superintendent by whom he was discharged, by his warrant in the prescribed form directed to any constable or peace officer or other person or to all constables or peace officers, may authorize and direct that such patient be apprehended and brought back to the hospital from which he was temporarily discharged, and such warrant shall be an authority to any one acting under it to apprehend the person named therein and to bring him back to the hospital. 3-4 Geo. V. c. 83, s. 31. Recommittal to hospital for the insane from custody of friends.

MAINTENANCE OF PATIENTS.

32. Where a patient in a hospital is under the age of twenty-one years and has a father or mother able to pay for his maintenance, or a guardian or committee, it shall be the duty of the bursar of the hospital to send a written notice to such father, mother, guardian or committee giving the date of the patient's admission to the hospital and the amount which will become due for his maintenance each quarter as provided by the regulations. 3-4 Geo. V. c. 83, s. 32. Application to parents of a minor to pay for his maintenance.

33. On the first day of each of the months of February, May, August and November a demand shall be made by the Inspector from the father or mother, guardian or committee, as the case may be, of the patient of such sum as may be due for the patient to the hospital and such sum shall be forthwith paid on such demand. 3-4 Geo. V. c. 83, s. 33. Liability for maintenance of patient.

34.—(1) In case of refusal or neglect to pay the sum so demanded the Inspector may apply to a judge of the county or district court of the county or district in which the person liable to pay resides for an order for the payment of the amount then due. Order for payment for maintenance.

(2) Ten days' notice of the application shall be given. Notice.

(3) If the judge is satisfied that the person against whom the application is made is liable and, in the case of the father or mother, is able to pay for such maintenance, or that the guardian or committee is able to pay for the same out of property in his possession belonging to the patient, he may make an order accordingly. 3-4 Geo. V. c. 18, s. 34. Liability of parents.

35.—(1) Any person admitted to a hospital who has at the time of his admission or subsequently comes into the Maintenance, liability for.

For married
woman.

possession of property shall be liable for his maintenance while in the hospital; and any person whose wife is detained in a hospital shall be liable for her maintenance while detained therein.

Recovery of.

(2) The Inspector may, by his name of office, recover the amounts owing in respect of such maintenance; but it shall not be his duty to enforce payment unless upon inquiry, regard being had to the claims of persons having a moral or legal right to be maintained by the person liable, the Inspector considers that the claim for maintenance ought to be enforced. 3-4 Geo. V. c. 83, s. 35.

When prop-
erty of a
patient may
be taken
possession
of to pay
for main-
tenance.

36.—(1) If a patient, upon or at any time after his admission into a hospital or sanitarium for mental diseases, is possessed of or entitled to any property out of which the expenses of his maintenance in the hospital or sanitarium or any part thereof can be paid, and has no guardian or committee lawfully appointed to take the care or management of it, and any sum due for the maintenance of the patient in the hospital is not paid on demand, or there is no one of whom it can be demanded, and such property, in the opinion of the Inspector, is more than sufficient or is not required to maintain the family, if any, of the patient, the Inspector may take possession of such property or of so much of it as he deems necessary to pay or to secure the payment of the sum due or to become due for the maintenance of the patient in the hospital, and he shall have full power over and be competent to manage and appropriate, take or recover possession of, lease, mortgage, sell and convey all or any part of such property in the name of the patient, or as his committee under this Act, as fully and effectually to all intents and purposes as the patient could or might if of full age and of sound and disposing mind; and notwithstanding the patient may have ceased to be an inmate of the hospital, or may have recovered or died, the Inspector may complete any lease, mortgage, sale or conveyance in respect of which proceedings have been commenced while the patient was confined in the hospital; but no such lease, mortgage, sale or conveyance shall be made without the written consent of the Attorney-General of Ontario.

Exercise
of powers
when deemed
expedient.

(2) The Inspector may exercise the powers conferred by this section notwithstanding that the property of the patient is not more than sufficient to maintain his family and that by reason thereof it is not intended to require payment for the maintenance of the patient.

Where
patient is
in custody
of friends.

(3) The Inspector may exercise the powers conferred by this section where the patient is committed to the custody of his friends as provided for in section 30. 3-4 Geo. V. c. 83, s. 36.

37. Where any money or other property belonging to or ^{Payment by Inspector to family of patient.} to the estate of a patient has been received by the Inspector as his statutory committee, the Lieutenant-Governor in Council may authorize the Inspector to pay over to any member of the family of such patient, or other person dependent upon him, such amount as may be deemed proper, and the Inspector, as such committee, in respect of every amount so paid shall be as fully discharged as if he had paid the same for the maintenance of the patient in the hospital. 3-4 Geo. V. c. 83, s. 37.

38. Every gift, grant, alienation, conveyance or transfer ^{Conveyances by patients.} of property made by any person who is or becomes an inmate of a hospital shall be deemed to be fraudulent and void, as against the Inspector, if the same is not made for full and valuable consideration actually paid or sufficiently secured to such person, or if the purchaser or transferee had notice ^{Notice.} of the insanity. 3-4 Geo. V. c. 83, s. 38.

39. If the Inspector deems it necessary in order to secure ^{Inspector's discretion.} the payment of the maintenance of the patient, or for the interest of his estate, so to do, he may exercise any of the powers conferred by section 36 although no sum is overdue for such maintenance. 3-4 Geo. V. c. 83, s. 39.

POWERS AND DUTIES OF INSPECTOR.

40.—(1) The Inspector shall be *ex-officio*, and by his ^{Patients of whom the Inspector is the committee.} name of office, the committee of every insane person who has no other committee and who is detained in any hospital, sanitarium for mental diseases or place of safe custody.

(2) The Supreme Court may at any time appoint a ^{Appointment of committee by Court.} committee of any such patient, and upon such appointment being made the Inspector, while there is any committee so appointed, shall not be the committee of the patient; but the Inspector upon delivering up the patient's estate shall retain so much thereof as may be required to pay any sum then due for maintenance.

(3) No application for the appointment of a committee ^{Notice of application.} shall be made until five clear days' notice thereof has been given to the Inspector, and with such notice shall be served a copy of the petition or notice of motion and the affidavits to be used in support thereof. 3-4 Geo. V. c. 83, s. 40.

41. Notwithstanding that another committee has been ap- ^{When acts of the Inspector valid as against the committee appointed by the Court.} pointed, every act of the Inspector, as the committee of a patient, shall be valid and binding upon the estate of such patient if done before a copy of the order appointing another committee with notice of the approval by the Court of his sureties has been served upon the Inspector. 3-4 Geo. V. c. 83, s. 41.

Service of
process upon
patients.

42. If an action or other proceeding is brought against a patient, it shall be sufficient in order to bind the estate of such patient, or to make the proceedings otherwise valid, to serve any writ, process, paper or other document upon the Inspector if the Inspector is named therein as committee. 3-4 Geo. V. c. 83, s. 42.

Proceed-
ings by
Inspector.

43. Nothing in this Act shall make it the duty of the Inspector to institute proceedings on behalf of a patient or to intervene in respect of his estate, but the Inspector may institute such proceedings and otherwise intervene in respect of the estate of a patient who has no other committee of his estate wherever the Inspector deems it expedient in the interest of the estate of the patient, or necessary in order to secure in the manner least burdensome to the estate of the patient money due or to become due for his maintenance in a hospital. 3-4 Geo. V. c. 83, s. 43.

Powers of
Inspector
as to es-
tate of de-
ceased in
case he is
the com-
mittee at
time of
death.

44. If at the time of the death of a patient the Inspector is the committee of such patient, the Inspector shall, until probate of the will or letters of administration of the estate of the patient is granted to some other person or persons and the grant notified to the Inspector in writing, continue to have and may, if he considers it requisite so to do, exercise by his name of office the same powers in respect of the estate of the deceased as an executor would have in respect of the estate of his testator in case the same were bequeathed or devised to him in trust for the payment of debts and the distribution of the residue. 3-4 Geo. V. c. 83, s. 44.

Liability
of Inspector
to account.

45.—(1) The Inspector shall be liable to render an account as to the manner in which he has managed the property and effects of the patient in the same way and subject to the same responsibilities as any trustee, guardian or committee duly appointed for a similar purpose may be called upon to account, and shall be entitled from time to time to bring in and pass his accounts and tax costs in like manner as a trustee, but shall be liable only for wilful misconduct.

Charges for
services.

(2) For the services rendered by the Inspector in the management of the property or estate of a patient the Minister may direct that a charge be made not exceeding the amount to which a trustee would be entitled for the like services, and not in any case more than 5 per cent. of the total value of such property or estate.

Application
to court
to be re-
lieved from
trust.

(3) When a person discharged from a hospital is not, in the opinion of the Inspector, competent to manage his affairs, and the Inspector has in his hands property of such person as committee under this Act, he may apply to the Supreme Court to be relieved of such property and be discharged of his trust; and the Court may give such orders and directions in the premises as it may deem just. 3-4 Geo. V. c. 83, s. 45.

46. In the cases mentioned in the next preceding ten sections, if doubt or opposition arises as to the right of property, the Inspector or the person claiming the property may apply to a judge of the county or district court of the county or district in which the property or any part of it is situate to try and determine the right of property, which he shall accordingly do. 3-4 Geo. V. c. 83, s. 46.

Disputes as to property, how settled.

47. The costs, charges and expenses which the Inspector incurs in respect of the property or estate of a patient shall be the first charge upon any money coming into his hands and belonging to the patient. 3-4 Geo. V. c. 83, s. 47.

Costs of Inspector a first charge on estate.

48. The Supreme Court shall, upon application by the Inspector, direct to be paid to him out of any fund or money in Court belonging to the patient the amount payable for maintenance of the patient. 3-4 Geo. V. c. 83, s. 48.

Payment of money in Court to Inspector.

49. If the insanity of a patient is of such a nature, and he is possessed of such property as would in the opinion of the superintendent justify the supply to him of greater comfort and attention than are supplied under the Regulations, the Inspector may make such order in respect thereto as he may deem proper. 3-4 Geo. V. c. 83, s. 49.

Inspector may make special order as to comfort of patient.

FORM 1.

(Section 7.)

Registered No.....
Case Book No.....

PROVINCE OF ONTARIO.

PHYSICIAN'S CERTIFICATE.

(a) Name
in full and
set forth
Qualifica-
tion or
Degree.
(b) Locality.
(c) Name
in full.
(d) Resi-
dence.
(e) Occu-
pation.

I, the undersigned (a) _____ a legally qualified
medical practitioner, residing and practising at (b) _____
in the County of _____ hereby certify that I, on the
day of _____ A.D. 19 _____, at _____ in the County
of _____ separately from any other medical practitioner,
personally examined (c) _____ of (d) _____
(e) _____ and after making due enquiry into all
facts in connection with the case of the said
necessary to be enquired into in order to enable me to form a
satisfactory opinion, I certify that the said
is insane, and is a proper person to be confined in a hospital for
the insane (*if the insane person is an idiot, add* and that the said
is an idiot), and that I have formed this
opinion upon the following grounds, namely:

1. Appearance.
2. Conduct.
3. Conversa-
tion.

1. Facts indicating insanity observed by myself: *

*The facts upon which (from personal observation) the opinion
of insanity has been formed should always be specified.

(f) State
the infor-
mation
and from
whom re-
ceived.2. Other facts (if any) indicating insanity, communicated to me
by others: (f) _____

Signed this _____ day of _____ A.D. 19 _____, at _____

Signed in the presence of _____

Witnesses. _____

1.

2.

Signature of Examining
Practitioner.

N.B.—No person will be admitted to any Hospital for the Insane
without the approval of the Superintendent or the Inspector, and
the person should not be forwarded to such Hospital until notice
has been received from the Superintendent or Inspector that ad-
mission has been awarded.

Extract from the Revised Statutes of Ontario (1914), Chap. 295,
Sec. 7:

7. No person shall be admitted into any hospital, except as a
voluntary patient or upon the warrant of the Lieutenant-Governor,
without the certificates, Form 1, of two legally qualified medical
practitioners, accompanied by the family history in the prescribed
form and the financial and estate history in the prescribed form,
and upon notice having been received from the superintendent of
the hospital that there is a vacancy for the patient. 3-4 Geo. V.
c. 83, Form 1.

3-4 Geo. V. c. 83, Form 1.

FORM 2.

(Section 13.)

WARRANT FOR THE APPREHENSION OF DANGEROUS INSANE PERSON.

Province of Ontario }
 County of }

To all or any of the Constables or other Peace Officers in the county of

Whereas information upon oath has this day been laid before the undersigned, one (*or as the case may be*) of His Majesty's Justices of the Peace in and for the said County of , that A.B. is insane and dangerous to be at large:

These are therefore to command you, in His Majesty's name, forthwith to apprehend the said A.B. and bring him before me (*or us*), or some one or more of His Majesty's Justices of the Peace in and for the said County, in order that inquiry may be made respecting the sanity of the said A.B., and that he may be further dealt with according to law.

Given under my (*or our*) hand and seal this day of ,
 in the year of our Lord , at , in the
 County of , [L. S.]

3-4 Geo. V. c. 83, Form 2.

FORM 3.

(Section 15.)

WARRANT OF COMMITTAL FOR SAFE CUSTODY PENDING ENQUIRY.

Province of Ontario }
 County of }

To all or any of the Constables or Peace Officers in the County of

Whereas on the day of last past, information upon oath was laid before me (*or us*) one (*or as the case may be*) of His Majesty's Justices of the Peace in and for the said County of that A.B. is insane and dangerous to be at large; and whereas the hearing of the same is adjourned to the day of at o'clock in the (*fore*) noon at , and it is necessary that the said A.B. should in the meantime be kept in safe custody:

These are therefore to command you or any of you, the said Constables or Peace Officers in His Majesty's name, forthwith to convey the said A.B. to , and there deliver him to the custody of , together with this precept;

And I hereby require you the said to receive the said A.B. into your custody and there safely keep him until the day of (*instant*), when you are hereby required to convey and have him the said A.B. at the time and place to which the said hearing is so adjourned as aforesaid, before such Justice or Justices of the Peace for the said County as may then be there to make further enquiry respecting his sanity, and to be further dealt with according to law.

Given under my (*or our*) hand and seal this day of
 in the year of our Lord at in the county aforesaid.

3-4 Geo. V. c. 83, Form 3.

FORM 4.

(Section 19.)

CERTIFICATE OF JUSTICE.

Province of Ontario, }
County of }

I, the undersigned *C.D.*, Esquire, one of His Majesty's Justices of the Peace for the County of _____ do hereby certify that I have on this _____ day of _____, A.D. 19____, personally examined *A.B.* of the _____ of _____ in the county of _____ and I do hereby further certify that from such personal examination, and from the evidence adduced thereon, I am of opinion that the said *A.B.* is insane and dangerous to be at large.

Signed this _____ day of _____, A.D. 19____, at _____ in the County of _____

3-4 Geo. V. c. 83, Form 4.

FORM 5.

CERTIFICATE OF MEDICAL PRACTITIONER WHERE PERSON UNDER ARREST IS NOT FIT FOR HOSPITAL FOR THE INSANE.

I, the undersigned *C.D.* (here set forth the qualification or degree of the person certifying: for example, *Licentiate of the Medical Board; M. D. of the University of Toronto, etc.*), a legally qualified medical practitioner, residing and practising at _____ in the County of _____, do hereby certify that I, on the _____ day of _____, A.D. 19____, at _____, in the County of _____, separately from any other medical practitioner, personally examined *A.B.*, (give address of insane person), and I further certify that I am satisfied that the said *A.B.*, is not insane (or that the said *A.B.*, though insane, is not dangerous to be at large), and is not in my opinion a fit person to be confined in a Hospital for the Insane.

Signed this _____ day of _____, A.D. 19____, at _____ in the County of _____

3-4 Geo. V. c. 83, Form 5.

FORM 6.

CERTIFICATE OF JUSTICE WHEN PERSON UNDER ARREST IS INSANE.

Province of Ontario }
County of }

I, the undersigned *C.D.*, one of His Majesty's justices of the peace for the county of _____ do hereby certify that I have on this _____ day of _____, A.D. 19____, personally examined *A.B.* (give his address), and I do hereby further certify that from such personal examination, and from the evidence adduced thereon, I am of opinion that the said *A.B.* is insane, and that the said *A.B.* is a proper person to be confined in a Hospital for the Insane.

Signed this _____ day of _____, A.D. 19____, at _____ in the County of _____

3-4 Geo. V. c. 83, Form 6.

FORM 7.

INFORMATION TO BE ELICITED UPON ENQUIRY.

QUESTION	ANSWER
1. The name in full of alleged insane person.....	
2. Post Office address of such person	
3. County in which apprehended	
4. City, Town, Village or Township in which apprehended	
5. How long a resident of such City, Town, Village or Township	
6. Age	
7. Occupation	
8. Religion	
9. Nationality	
10. Sex	
11. Whether married or single, and if single, whether ever married...	
12. Name and Post Office address of husband, wife, parent or guardian, if any, and if guardian state relationship.....	
13. Number of children, if any, their names and ages, and their Post Office addresses and, if under age, state with whom residing	
14. How long such person has been insane	
15. Duration of the present attack, and whether the first	
16. How the insanity first showed itself, and the supposed causes	
17. Whether any delusions, and if so what they are.	
18. Whether such person is suicidal or dangerous to others	

QUESTION	ANSWER
19. Whether any offence has ever been committed by such person, and whether such person has ever been convicted of same, with all particulars	
20. Whether such person is subject to epilepsy or paralysis	
21. Whether any of the other members of such person's family have suffered in a similar way, and whether such person has ever been in an asylum, and if so when and where	
22. What have been the habits of such person as to temperance, industry and general conduct, and in what manner they have changed — whether the change has been recent, gradual or sudden	
23. Whether such person has been subject to any bodily ailments, and if so their nature	
24. Degree of education of such person, and any other information that will in the opinion of the Justice or Justices aid the Medical Superintendent in the treatment of the case	
25. Whether such person is idiotic, imbecile or incurable	
26. Whether the friends or relations of such person, or any of them, if such there be, are able to contribute to the maintenance of such person while in an asylum, and which, if any of such friends, and how much they or any of them can contribute	
27. Has such person any property, real or personal? What does it consist of and where is it situated; also state value and encumbrances, if any?...	

QUESTION	ANSWER
28. Has such person any moneys on deposit in banks? If so, in what bank and in whose possession are the deposit receipts, bank books or other acknowledgments of such deposit?	
29. Give the name and Post Office address of the person in whose possession such acknowledgments, if any, are.....	
30. If such alleged insane person is under the age of twenty-one years, what property, real or personal, has the parent or guardian? What does it consist of and where is it situated; also state value and encumbrances, if any	
31. Has such person any one dependent upon him for support? If so, state relationship, names, ages, and Post Office addresses.	

Signature of Justice.

Post Office Address.

Date

19

N.B.—The above form should be carefully filled in and should contain all the information available.

3-4 Geo. V. c. 83, Form 7.

FORM 8.

(Section 12.)

FORM OF APPLICATION FOR THE ADMISSION OF A VOLUNTARY PATIENT
TO THE HOSPITAL FOR THE INSANE AT

I, _____ of the _____ of _____ in the County of _____ being _____ request the Superintendent of the Hospital for the Insane at _____ to admit me as a Voluntary Patient, and I hereby pledge myself to remain in the said Hospital at _____ for a period, not exceeding one year, which the said Superintendent may deem necessary to effect a permanent cure in my case; and I further pledge myself to give at least five full days' notice in writing to the said Superintendent of my intention to leave the said Hospital for the Insane; and I further pledge myself to submit to the rules and regulations of the said Hospital now in force or which may hereafter be enacted and to carry out or assist in carrying out all the directions which the said Superintendent may give for my treatment, and also to conduct myself in such a manner as not to be guilty of any conduct prejudicial to the good order and discipline of the said Hospital.

Signed this _____ day of _____, A.D. 191____, at _____ in the County of _____

In the presence of _____

I hereby testify that the above named person _____ is as stated in the above application a _____ and that he is a reasonably hopeful subject for treatment with a view to effecting a cure of his malady.

M.D.

Dated at _____ A.D. 191____.

3-4 Geo. V. c. 83, Form 8.

CHAPTER 296.

An Act respecting Private Sanitaria for
Mental Diseases.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Private Sanitarium Act*. Short title.
3-4 Geo. V. c. 85, s. 1.

2. In this Act

Interpreta-
tion.

- (a) "Board" shall mean Board of Visitors; "Board."
- (b) "Drug habituate" shall mean a person who habitually uses any poisonous or narcotic drug or other substance in such quantities or so frequently as to endanger his health or reason; "Drug habituate."
- (c) "Inspector" shall mean the Inspector designated by the Minister to inspect Hospitals and Public Charities under *The Prisons and Public Charities Inspection Act*, to whom is assigned the duty of inspecting institutions subject to this Act; "Inspector." Rev. Stat. c. 301.
- (d) "Intoxicating liquor" shall have the meaning given to it by *The Liquor License Act*; "Intoxicating liquor." Rev. Stat. c. 215.
- (e) "Minister" shall mean the member of the Executive Council charged for the time being with the administration of this Act; "Minister."
- (f) "Proprietor" shall mean every person or corporation to whom a license is granted under the provisions of this Act, and every person or corporation keeping, owning or having any interest or exercising any duties or powers of a proprietor in a sanitarium; "Proprietor."
- (g) "Sanitarium" shall mean an institution for the care and treatment of mental and nervous diseases licensed under the provisions of this Act. "Sanitarium." 3-4 Geo. V. c. 85, s. 2.

LICENSE, HOW OBTAINED, ETC.

3. When the proprietor of a sanitarium desires to obtain a license for such sanitarium under the provisions of this Act he shall give notice thereof to the Minister. 3-4 Geo. V. c. 85, s. 3.

Contents of
notice.

4. The notice shall contain the Christian name and surname, place of abode and occupation of the proprietor, unless such proprietor is a corporation, when the name and chief place of business of the corporation shall be given, and a true and full description of such proprietor's estate or interest in such house; and if the proprietor to whom the license is desired to be granted does not propose to reside himself in the licensed house the notice shall contain the Christian name and surname, place of abode and occupation of the superintendent who is to reside therein. 3-4 Geo. V. c. 58, s. 4.

Plan of the
house, etc.

5. The notice shall be accompanied by a plan of the house, drawn upon a scale of not less than one-eighth of an inch to a foot, with a statement showing

Its situa-
tion.

(a) the situation thereof;

Size of room.

(b) the length, breadth and height of, and a reference by a figure or letter to every room and apartment therein;

Extent of
grounds.

(c) the quantity of land not covered by any building annexed to such house, and appropriated to the exclusive use, exercise and recreation of the patients proposed to be received therein;

Number of
patients
provided for.

(d) the number of patients proposed to be received into such institution, and whether the license so applied for is for the reception of male or female patients or of both, and if for the reception of both the number of each sex proposed to be received in such institution, and the means by which the one sex may be kept separate and apart from the other;

Sanitary
regulations,
etc.

(e) the sanitary arrangements, ventilation, heating and water supply, and the fire escapes and the facilities provided for use in case of fire and the means for preventing fires. 3-4 Geo. V. c. 85, s. 5.

Time for
sending notice
to inspector.

6.—(1) The notice, with the plan and statements required by the next preceding section, shall be sent to the Inspector at least two weeks before the reception of patients.

Inspector
to report.

(2) The Inspector shall thereupon visit the proposed sanitarium and inspect the same, and report thereon to the Lieutenant-Governor in Council. 3-4 Geo. V. c. 85, s. 6.

License to
proprietors.

7. If the Inspector reports that the buildings and premises are ready and fit for occupation as a sanitarium the Lieutenant-Governor in Council may issue a license to the proprietor to keep and maintain the same for the purposes of a sanitarium and receive therein the number of patients named in the Inspector's report; and such license shall continue in force until revoked by the Lieutenant-Governor in Council on the report of the Inspector. 3-4 Geo. V. c. 85, s. 7.

8. No such license shall be granted unless the proprietor gives security to His Majesty in the sum of \$1,000 under the usual conditions for the good behaviour of such proprietor during the time for which the license continues in force. 3-4 Geo. V. c. 85, s. 8. Security by licensee.

BOARD OF VISITORS.

9.—(1) Every sanitarium shall be under the supervision and inspection of a Board of Visitors composed of the judge or, in the case of his absence or disqualification, a junior or deputy judge of the county or district court, the clerk of the peace and the sheriff of the county or district in which the sanitarium is situate, together with two legally qualified medical practitioners appointed by the Lieutenant-Governor in Council who shall hold office for three years unless sooner removed by him. Board of Visitors.

(2) The judge shall be the chairman and the clerk of the peace shall be the secretary of the Board. Chairman and secretary.

(3) The members of the Board shall be paid by the proprietor such allowance for their services as the Lieutenant-Governor in Council may direct. 3-4 Geo. V. c. 85, s. 9. Allowance to members.

10.—(1) No member of the Board shall be pecuniarily interested in any sanitarium, either directly or indirectly, and any member who after his appointment becomes interested in any sanitarium either as proprietor or part owner, or by the sale of merchandise to such a sanitarium or in any other way, shall thereupon become disqualified from acting and shall not thereafter act in such capacity. Visitors not to have a pecuniary interest in any sanitarium.

(2) If a member of the Board is or becomes so disqualified the Lieutenant-Governor in Council may appoint some one to act in his stead. 3-4 Geo. V. c. 85, s. 10. Appointment in case of disqualification.

11.—(1) Every visitor shall, before acting, take and subscribe the following oath: Oath of visitors.

"I, A.B., do swear that I will discreetly, impartially and faithfully execute all the trusts and powers committed to me by virtue of *The Private Sanitarium Act*, and that I will keep secret all such matters as come to my knowledge in the execution of my office, except when required to divulge the same by legal authority, or so far as I feel myself called upon to do so for the better execution of the duty imposed upon me by the said Act."

(2) The oath shall be filed in the office of the clerk of the peace. 3-4 Geo. V. c. 85, s. 11. Oath to be filed.

12. The secretary shall summon the Board to meet for the purpose of executing their duties under this Act. 3-4 Geo. V. c. 85, s. 12. Meeting of Visitors.

Visitors' meetings to be private.

13. Every such summons and meeting shall be made and held as privately as possible and in such manner that no proprietor, superintendent or person interested in or employed about or connected with the sanitarium to be visited shall know of such intended visitation. 3-4 Geo. V. c. 85, s. 13.

Assistant secretary.

14.—(1) If the secretary at any time desires to employ an assistant in the execution of the duties of his office he shall certify such desire and the name of the proposed assistant to the chairman of the Board, and if such assistant is approved of the chairman shall administer the following oath to such assistant:

Oath of.

"I, A.B., do swear that I will faithfully keep secret all such matters and things as come to my knowledge in consequence of my employment as assistant to the secretary of the Board of Visitors, appointed for the county or district of _____ by virtue of *The Private Sanitarium Act*, unless required to divulge the same by legal authority: So help me God."

At whose cost.

(2) The secretary may thereafter, at his own cost, employ such assistant. 3-4 Geo. V. c. 85, s. 14.

Restrictions upon physicians who are visitors.

15.—(1) No medical practitioner who is a member of the Board shall sign any certificate for the admission of any patient into any sanitarium or shall professionally attend upon any patient therein unless he is directed to visit such patient by the person upon whose order such patient has been received into the sanitarium, or by the Minister or by one of the Judges of the Supreme Court, or by some person appointed by one of such Judges for that purpose.

Penalty.

(2) For every contravention of subsection 1 the medical practitioner shall incur a penalty of \$200. 3-4 Geo. V. c. 85, s. 15.

REMOVAL OF SUPERINTENDENT.

Removal of superintendent.

16. A proprietor may remove the superintendent named in the notice, and may at any time appoint another superintendent upon giving to the Board a notice containing the Christian name and surname, place of abode and occupation of the new superintendent. 3-4 Geo. V. c. 85, s. 16.

FEEES FOR LICENSES.

Fees.

17. For every license there shall be paid to the clerk of the peace for the county or district in which the sanitarium is located, for every patient proposed to be received therein, the sum of \$5, and if the total amount so payable does not amount to \$200 so much more as together therewith will make up the sum of \$200; and no such license shall be delivered until the sum payable for the same has been paid. 3-4 Geo. V. c. 85, s. 17.

18. All money received for licenses granted under this Act shall be applied towards the payment of the allowance to the secretary for his services and the discharge of the costs, charges and expenses incurred by or under the authority of the Board in the execution of or by virtue of this Act. Application of fees. 3-4 Geo. V. c. 85, s. 18.

19. The clerk of the peace shall keep an account of all money received and paid by him under this Act, and such accounts shall be made up to the last day of December in each year inclusively, and shall be signed by two at least of the members of the Board and forwarded to the Minister. Clerk of the Peace to keep accounts of moneys received or expended. 3-4 Geo. V. c. 85, s. 19.

ADDITIONS AND ALTERATIONS TO LICENSED PREMISES.

20. No one license shall include or extend to more than one sanitarium; but if there is any place or building detached from the sanitarium, but not separated from it by ground belonging to any other person, and if such place or building is specified, delineated and described in the prescribed notice, plan and statement in the same manner in all particulars as if the same had formed part of such sanitarium, then such detached place or building, if the Lieutenant-Governor in Council thinks fit, may be included in the license for the sanitarium, and if so included shall be considered part of such sanitarium for the purposes of this Act. To what premises license may extend. 3-4 Geo. V. c. 85, s. 20.

21. No addition or alteration shall be made to, in or about any sanitarium, or the appurtenances, unless previous notice in writing of the proposed addition or alteration, accompanied with a plan thereof, drawn upon the prescribed scale and accompanied by the prescribed statement, has been given to the Inspector by the proprietor, nor unless the approval of the Lieutenant-Governor in Council has been previously obtained. Alterations in sanitarium. 3-4 Geo. V. c. 85, s. 21.

TRANSFERS AND REMOVALS.

22. If a proprietor becomes incapable of keeping the sanitarium or dies before the expiration of the license the Lieutenant-Governor in Council may authorize the transfer of the license, for the term then unexpired, to the person who at the time of such incapacity or death was the superintendent of such house or had the care of the patients therein, or to such other person as the Lieutenant-Governor in Council may approve; and in the meantime the license shall remain in force and have the same effect as if granted to the superintendent. When license transferable. 3-4 Geo. V. c. 85, s. 22.

Survivor-
ship.

23. If a license has been granted to two or more persons, and one or more of such persons die leaving the other or others surviving, the license shall remain in force and have the same effect as if granted to the survivor or survivors. 3-4 Geo. V. c. 85, s. 23.

Removal
to other
premises.

24.—(1) If a sanitarium is pulled down or becomes unfit for the accommodation of patients, or if the proprietor desires to transfer the patients to another building, the Lieutenant-Governor in Council may grant to him a license to keep such other building for the reception of patients for such time as the Lieutenant-Governor in Council thinks fit; but the like notice of such intended change and the like plans and statements of and as to such intended new building shall be given as are required when application is first made for a license for a sanitarium, and shall be accompanied by a statement in writing of the cause of the change.

Fee for
license for
transfer.

(2) A fee of \$25 shall be payable by the licensee to the clerk of the peace upon the issue of the license.

Notice of
intended
removal.

(3) Except where the change is occasioned by fire or tempest seven clear days' previous notice of the intended removal shall be sent by the proprietor to the person who signed the requisition for the reception of each patient or the person by whom the last payment on account of each patient had been made. 3-4 Geo. V. c. 85, s. 24.

ADMISSION OF PATIENTS.

Orders for
admission
of patient.

25.—(1) Subject to the provisions and exceptions hereinafter made no person, whether he is or is represented to be mentally diseased, or only a boarder or lodger in respect of whom any money is paid or agreed to be paid for board, lodging or any other accommodation, shall be received into or detained in any sanitarium without a requisition under the hand of some person according to and stating the particulars mentioned in Form 1, nor without separate certificates, according to Form 2, of two legally qualified medical practitioners not being partners or brothers, or father and son, each of whom separately from the other has personally examined the person to whom the certificates relate not more than fifteen clear days previous to the reception of such person into such sanitarium, and each of whom has signed and dated the certificate on the day on which such person was so examined.

Medical cer-
tificates.

Contents.

(2) Every medical practitioner who signs a certificate shall state therein that he has personally examined the person to whom the certificate relates, and that from such examination and from the evidence adduced before him, he is of opinion that such person is mentally diseased, and a proper person to be confined in a sanitarium for mental diseases;

and he shall also state the facts and evidence adduced before him which led to such opinion; and he shall therein distinguish the facts observed by himself from facts communicated to him by others. 3-4 Geo. V. c. 85, s. 25.

26.—(1) The superintendent of a sanitarium may admit to and detain in it any person domiciled out of Ontario who is certified to be mentally diseased by two duly qualified medical practitioners of the place out of Ontario in which such person has his domicile, if certificates are made *mutatis mutandis* according to Form 2, but any person domiciled out of Ontario so admitted and detained in a sanitarium shall, within fifteen days of such admission, be examined by one legally qualified medical practitioner of Ontario who shall certify according to Form 2. Patients from other countries.

(2) The certificates shall be a sufficient authority to any person to convey the patient to the sanitarium and to the superintendent thereof to detain him therein, or to the superintendent of any hospital for the insane to which the patient may afterwards be transferred by the order of the Inspector, to receive such patient in such hospital and to detain him therein as long as he continues to be mentally diseased. 3-4 Geo. V. c. 85, s. 26. Effect of medical certificates.

27. Any person may, under special circumstances, be received into the sanitarium upon a requisition accompanied by the certificate of one legally qualified medical practitioner if the requisition states special circumstances which prevented the person from being examined by two duly qualified medical practitioners; but in every such case another certificate shall be signed by some other legally qualified medical practitioner, not connected with any sanitarium, who has specially examined such person within three days after his reception into such sanitarium. 3-4 Geo. V. c. 85, s. 27. When certificate of one physician sufficient.

28. Subject to the provisions and exceptions hereinafter made no person shall receive to board and lodge in any building not licensed under this Act or take the charge or care of more than two mentally diseased persons at the same time. 3-4 Geo. V. c. 85, s. 28. Restrictions upon unlicensed houses.

29. Every person who receives to board or lodge in a building not licensed under this Act, or takes the care or charge of a person mentally diseased, shall within one month next after receiving such person into his house or under his care notify the Inspector thereof. 3-4 Geo. V. c. 85, s. 29. Duty to notify Inspector.

30. No medical practitioner who, or whose father, brother, son or partner, is wholly or partly the proprietor of or a regular professional attendant in a sanitarium shall sign any certificate for the reception therein of a patient; and no medical practitioner who, or whose father, brother, son or When physician not allowed to certify.

partner, signs the prescribed requisition for the reception of a patient shall sign any certificate for the reception of the same patient. 3-4 Geo. V. c. 85, s. 30.

Penalty on physician giving false certificate maliciously.

31.—(1) Any medical practitioner who maliciously or corruptly signs any false certificate for the purpose of procuring the confinement of any sane person in a sanitarium shall, upon judgment being given against him in an action for damages on account of such malicious or corrupt act, *ipso facto* be incapacitated from practising in Ontario for the period of five years thereafter.

Removal from register.

(2) The name of such medical practitioner shall upon production of a certified copy of the judgment to the registrar of the College of Physicians and Surgeons of Ontario be removed from the register. 3-4 Geo. V. c. 85, s. 31.

Admission of voluntary patient.

32.—(1) The superintendent of a sanitarium, upon the written application of any person who is desirous of submitting himself for treatment of any nervous or physical ailment, may receive and detain him therein upon the certificate of one legally qualified medical practitioner that such person is afflicted with any such ailment and that there is danger that such ailment will develop into mental derangement unless it is properly treated.

Discharge.

(2) No person so admitted shall be detained more than three days after he has given notice in writing to the superintendent of his desire to leave the sanitarium.

Notice of admission to board of visitors.

(3) The superintendent shall give immediate notice of the reception of such person to the secretary of the Board, stating all the particulars of the case; and one or more members of the Board or the secretary shall forthwith visit such patient in order to verify the fact of his having been admitted voluntarily; and all the facts in connection with the case shall be forthwith recorded in the visitors' book by the person making the inquiry. 3-4 Geo. V. c. 85, s. 32.

Visit by the board.

Record of visit.

Books to be kept and entries made therein.

33.—(1) Every proprietor or superintendent who receives a patient into a sanitarium shall, within two days after his reception, make an entry with respect to him in a book to be kept for that purpose, to be called "Register of Patients," according to the form and containing the particulars mentioned in Form 3, so far as he can ascertain the same, and when a patient is discharged or dies an entry of the fact shall be made in the appropriate column.

Penalty.

(2) Every person who contravenes subsection 1 shall incur a penalty not exceeding \$10. 3-4 Geo. V. c. 85, s. 33.

Record of.

34. The form of the mental disorder, if any, of every patient received into a sanitarium shall, within seven days after his reception, be entered in the clinical record by the

medical attendant, and every medical attendant who omits to make such entry shall, for every such omission, incur a penalty not exceeding \$10. 3-4 Geo. V. c. 85, s. 34. Penalty.

35. The proprietor or superintendent of every sanitarium shall, after two clear days and before the expiration of seven clear days from the day on which any patient has been received into the sanitarium, transmit to the secretary of the Board a copy of the requisition and medical certificates or certificate on which the patient was received, and also a notice and statement according to Form 4. 3-4 Geo. V. c. 85, s. 35. Copy of order for Visitors.

PROCEDURE IN CASE OF ESCAPE.

36.—(1) Where a patient has escaped from a sanitarium, the proprietor or superintendent shall, within two clear days next after the escape, transmit written notice thereof to the Inspector and to the secretary of the Board. Escape. Notice.

(2) The notice shall state the Christian name and surname of the patient, and his then state of mind, and the circumstances connected with the escape. Contents of notice.

(3) The patient may be retaken at any time within one month after his escape and brought back to and detained in the sanitarium. Capture.

(4) If the patient is brought back, the proprietor or superintendent shall within two clear days thereafter transmit written notice thereof to the Inspector and the secretary. Notice of capture.

(5) The notice shall state when the patient was so brought back and under what circumstances, and whether with or without a fresh requisition and certificate. Contents.

(6) Every proprietor or superintendent who omits to transmit such notice, whether of escape or of return, shall, for every such omission, incur a penalty not exceeding \$50. 3-4 Geo. V. c. 85, s. 36. Penalty.

REMOVAL, DISCHARGE, DEATH, ETC.

37. Where a patient is removed or discharged from a sanitarium or dies therein, the proprietor or superintendent shall, within two clear days next after such removal, discharge or death, make an entry thereof in a book to be kept for that purpose, according to Form 5, and stating the particulars in Form 5, and shall also within the same period transmit written notice thereof, Form 6, and also of the cause of the removal, discharge or death, if known, to the Inspector and to the secretary of the Board. 3-4 Geo. V. c. 85, s. 37. Entry or removal, discharge, etc. Notice.

38.—(1) Where a patient dies in a sanitarium, a statement of the cause of death, with the name of any person present at the death, shall be forthwith drawn up and signed Certificate required in case of death.

by the superintendent of the sanitarium; and a copy thereof duly certified by the proprietor or superintendent shall, within forty-eight hours after the death of the patient, be transmitted by him to the nearest coroner and to the Inspector and to the secretary of the Board, and also to the person who signed the requisition for the patient's admission or, if he is dead or absent from Ontario, to the person who made the last payment on account of the patient.

Penalty.

(2) Every person who contravenes subsection 1 shall incur a penalty not exceeding \$200. 3-4 Geo. V. c. 85, s. 38.

Rights of discharged patient.

39. Where a person discharged from a sanitarium considers himself to have been unjustly detained therein the secretary of the Board shall, at his request, furnish to him or to his solicitor, without fee or reward, a copy of the certificates and requisition upon which he was admitted or detained. 3-4 Geo. V. c. 85, s. 39.

MEDICAL ATTENDANCE.

Staff of medical attendants.

40.—(1) In every sanitarium licensed for one hundred patients or more there shall be a legally qualified resident medical practitioner as superintendent or medical attendant thereof and one legally qualified medical practitioner for each thirty patients over the first thirty in residence; and in every such sanitarium licensed for less than one hundred and more than fifty patients there shall be one legally qualified medical practitioner for each thirty patients in residence; and every sanitarium licensed for less than fifty patients, if it is not kept by or has not a resident legally qualified medical practitioner, shall be visited by one twice in every week; but the Board or the Inspector may direct that such last mentioned sanitarium shall be visited by a legally qualified medical practitioner at any other time or times not oftener than once in every day.

When less than eleven patients.

(2) Where a sanitarium is licensed to receive less than eleven patients any two members of the Board may, by writing under their hands, permit the sanitarium to be visited by a physician at such intervals more distant than twice every week, as such visitors appoint, but not at a greater interval than once in every two weeks. 3-4 Geo. V. c. 85, s. 40.

"The Clinical Record."

41.—(1) There shall be kept in every sanitarium a record to be called "The Clinical Record" in which the physician keeping or residing in or visiting such sanitarium shall make or cause to be made entries at least every week of the mental state and bodily condition of each patient and a correct statement of the treatment pursued.

Duty to furnish copies.

(2) The Inspector or the Board may, whenever they see fit, by an order in writing, require the superintendent to transmit to him or them a correct copy of the entries or entry in

the clinical record relative to the case of any patient who is or has been detained in the sanitarium.

(3) Every person who contravenes any of the provisions of ^{Penalty.} subsection 1 or subsection 2 shall incur a penalty not exceeding \$40. 3-4 Geo. V. c. 85, s. 41.

42. There shall also be kept and observed such forms and ^{Forms and regulations.} regulations as the Inspector shall from time to time direct for the further purpose of recording clinical particulars regarding patients' mental and physical condition and reporting particulars regarding the estates of patients. 3-4 Geo. V. c. 85, s. 42.

INSPECTION OF SANITARIA.

43. Every sanitarium shall be visited and inspected ^{Inspection and visitation.}

- (a) by two at least of the members of the Board, one of ^{Inspection by Visitors.} whom shall be a legally qualified medical practitioner, four times at the least in every year; and
- (b) at least once in every year by the Inspector ^{By Inspector.} who shall prepare and forward a full report of his visit of inspection to the Minister. 3-4 Geo. V. c. 85, s. 43.

44.—(1) The visitors and Inspector, when visiting any ^{Duties of in making visits.} such sanitarium, shall inspect every part of it and every house, out-house, place and building communicating with it or detached from it, but not separated by ground belonging to another person, and every part of the ground and appurtenances held, used or occupied therewith, and shall see every patient then detained therein, and shall inquire whether any patient is under restraint and why, and shall inspect the order and certificates or certificate for the reception and detention of every patient who has been received into the sanitarium since the last visit, and shall enter in the visitors' book a minute as to

- (a) the then condition of the sanitarium, its furniture, furnishings and surroundings;
- (b) the appearance of the patients, particularly noting if there are any marks of violence;
- (c) the condition of the beds and bedding;
- (d) whether the dietary is suitable and the food service satisfactory;
- (e) whether the staff is sufficient;
- (f) the number of patients under restraint or in seclusion with the reasons stated therefor;
- (g) any irregularity in the order or certificate;

- (h) whether the previous suggestions, if any, of the Inspector or visitors have been attended to; and
- (i) any matter as to which they deem it proper to make observations.

Duties of proprietor or superintendent.

(2) The proprietor or superintendent shall show to the visitors or Inspector every part of the sanitarium and every person detained therein as a patient.

Inquiries to be made by the visitors.

(3) The visitors and Inspector shall inquire

- (a) whether divine service is held therein, for what number of patients, and the effect thereof;
- (b) what occupations or amusements are provided for the patients, and the result thereof;
- (c) whether there has been adopted any system of non-restraint, and if so the result thereof;
- (d) as to the classification of patients;
- (e) whether there is any patient who should be discharged;
- (f) whether the building, its furniture and furnishings are suitable;
- (g) whether the nurses engaged in caring for the patients are properly trained for the work in which they are engaged, and how many trained graduate nurses are employed, and
- (h) as to any other matter as to which it may be proper to enquire in order to ascertain whether the sanitarium is properly conducted.

What information to be laid before the visitors.

(4) Upon every visit there shall be laid before the visitors or the Inspector by the proprietor or superintendent

- (a) a list of all the patients then in the sanitarium, distinguishing males from females, and specifying such as are deemed curable;
- (b) the books and records required to be kept by the proprietor or superintendent, and by a medical attendant;
- (c) all requisitions and certificates relating to patients admitted since the last visit;
- (d) the license then in force;
- (e) all such other requisitions, certificates, documents and papers relating to any of the patients at any time received into the sanitarium as the visitors or Inspector from time to time require to be produced. 3-4 Geo. V. c. 85, s. 44.

45. There shall be hung up in some conspicuous part of every sanitarium a copy of the plan sent to the Inspector on applying for the license, and there shall be kept in every such sanitarium a copy of this Act, bound in a book, to be called "The Visitors' Book." 3-4 Geo. V. c. 85, s. 45.

Plan and
Visitors'
Book" to
be kept.

46.—(1) The proprietor or superintendent of every sanitarium shall, within three days after every visit by the visitors, transmit to the Inspector and the secretary of the Board a true copy of the entries made by them in "The Visitors' Book."

Copies of
certain
entries.

(2) The proprietor or superintendent of every sanitarium shall, on the last day of each month, report to the Inspector the name of each patient admitted during that month, and transmit copies of the certificates and papers upon which each such patient was admitted, and shall at any and all times furnish to the Inspector such other reports and information relative to any patient as may be required by him.

Monthly
report
to Inspe-
ctor.

(3) Every person who contravenes any of the provisions of subsections 1 and 2 shall incur a penalty not exceeding \$40. 3-4 Geo. V. c. 85, s. 46.

Penalty for
omission.

47. The Inspector or any two or more members of the Board may visit and inspect a sanitarium within their jurisdiction at any hour of the day or night. 3-4 Geo. V. c. 85, s. 47.

Visits.

DISCHARGE OF PATIENTS.

48.—(1) Subject to subsection 3, where the person who signed the requisition on which a patient was received into a sanitarium, by writing under his hand, directs the patient to be removed or discharged, such patient shall forthwith be removed or discharged accordingly.

Order for
discharge.

(2) Subject to subsection 3, if the person who signed the requisition is incapable of giving an order for the discharge or removal of the patient, or if he is absent from Ontario or is dead, the husband or wife of the patient, or if there is no husband or wife, the father of the patient, or if there is no father, the mother of the patient, or if there is no mother, then any one of the nearest of kin for the time being of the patient, or the person who made the last payment on account of the patient, may, by writing under his or her hand, give such direction for the discharge or removal of the patient, and thereupon the patient shall be forthwith discharged or removed accordingly.

Disability
of person
who signed
the requisition
for
admission.

(3) No patient shall be discharged or removed if the superintendent or attending physician, by writing under his hand, certifies that in his opinion the patient is dangerous and unfit to be at large, together with the grounds on which such opinion is founded, unless the Inspector, after such cer-

What to be
done if the
physician
in charge
objects.

tificate has been produced to him, gives his consent in writing to the discharge or removal of the patient. 3-4 Geo. V. c. 85, s. 48.

Transfer
to another
sanitarium
or to a hos-
pital for
the insane.

49. Nothing herein shall prevent a patient from being transferred from one sanitarium to another or to a hospital for the insane, but in such case the patient shall, for the purpose of such removal, be placed under the control of an attendant belonging to the sanitarium to or from which he is about to be removed, and shall remain under such control until the removal has been effected. 3-4 Geo. V. c. 85, s. 49.

Discharge
of patients
by order of
Inspector or
visitors.

50.—(1) The Inspector or any two or more members of the Board, one of whom is a legally qualified medical practitioner, may make special visits to any patient on such days and at such hours as they think fit; and if after two distinct and separate visits made by the same visitors or Inspector it appears that the patient is detained without sufficient cause such visitors or the Inspector may order his discharge and the patient shall be discharged accordingly.

Prerequi-
sites.

(2) Every such order shall be signed by such visitors or Inspector, and the discharge of a patient shall not be ordered until after a conference with the superintendent or an attending medical practitioner respecting the fitness of the patient to be discharged.

Objections
of physician
in charge
to be re-
corded.

(3) If the visitors or Inspector, after such conference, discharge a patient, and the superintendent or medical practitioner has furnished them with a statement in writing containing his reasons against the discharge, they or he shall forthwith transmit such statement to the secretary of the Board, who shall enter and register it in a book to be kept for that purpose.

Time to
intervene
between
special
visits, etc.

(4) Not less than seven days shall intervene between the first and second of such special visits, and the Board or Inspector shall, seven days before the second of such visits, give notice thereof, either by post or by an entry in "The Visitors' Book," to the proprietor or superintendent of the sanitarium; and the proprietor or superintendent shall forthwith if possible transmit by registered post a copy of the notice to the person by whose authority the patient was admitted or by whom the last payment on account of such patient was made.

What
patients the
visitors
cannot
discharge.

(5) None of the powers of discharge shall extend to a patient confined under an order or the authority of the Lieutenant-Governor or under the order of any court of criminal jurisdiction. 3-4 Geo. V. c. 85, s. 50.

ORDER FOR INFORMATION.

Information
respecting
individuals
detained in
sanitarium.

51. If a person applies to a member of the Board or to the Inspector to be informed whether any particular person is detained in a sanitarium the member or Inspector may

give a direction so to do to the secretary of the Board who shall on the receipt of such direction make search amongst the returns made to him in pursuance of this Act, whether the person inquired for is or, within the then last twelve months, has been detained in any sanitarium under the jurisdiction of the Board; and if it appears that such person is or has been so detained the secretary shall deliver to the person applying a statement in writing specifying

- (a) the name and location of the sanitarium in which the person appears to be or to have been detained;
- (b) the name of the proprietor or superintendent thereof;
- (c) the date of admission of such person; and
- (d) in case of his having been removed or discharged, the date of his removal or discharge. 3-4 Geo. V. c. 85, s. 51.

ORDERS FOR ADMISSION.

52.—(1) Any member of the Board or the Inspector may, ^{Visits of relatives or friends.} at any time, give an order in writing under his hand for the admission to any patient detained in a sanitarium of any relation or friend of such patient or of any person whom any relation or friend of the patient desires to be admitted to him.

(2) The order may be either for a single admission or for ^{Extent.} an admission for any limited number of times or for admission generally at all reasonable times.

(3) If the proprietor or superintendent refuses admission ^{Penalty for refusing admission.} to or prevents or obstructs the admission to any patient of a person who produces such an order for his admission, he shall incur a penalty not exceeding \$80. 3-4 Geo. V. c. 85, s. 52.

MISCELLANEOUS PROVISIONS.

53.—(1) If the superintendent of a sanitarium considers ^{Entrusting patient to custody of his friends.} it conducive to the recovery of any patient that he should be entrusted for a time to the care of his friends the superintendent may allow such patient to return on trial to his friends upon receiving a written undertaking by one or more of them that he or they will keep an oversight over such patient.

(2) If within six months thereafter the patient becomes ^{Recommitment to sanitarium.} dangerous or unfit to be at large, the medical superintendent, with the consent of the Inspector or one of the visitors, to be indorsed on the warrant, may, by his warrant directed to any person or to any constable or peace officer or to all con-

stables or peace officers, authorize and direct that such patient be apprehended and brought back to the sanitarium; and the warrant so indorsed shall be an authority to any one acting under it to apprehend the person named in it and to bring him back to the sanitarium. 3-4 Geo. V. c. 85, s. 53.

Excursions
for benefit of
health.

54. The proprietor or superintendent of a sanitarium, with the consent in writing of any two of the visitors, may send or take under proper control any patient to any specified place for any definite time for the benefit of his health; but before such consent is given the approval in writing of the person who signed the requisition for the admission of the patient, or by whom the last payment on account of the patient was made, shall, if required, be produced to such visitors. 3-4 Geo. V. c. 85, s. 54.

Attend-
ance of
witnesses.

55.—(1) The Inspector or any two members of the Board may, by summons under their hands and seals, Form 7, require any person to appear before him or them to testify on oath the truth touching any matters respecting which such Inspector or visitors are authorized to enquire.

Penalty for
non-attend-
ance, etc.

(2) Every person who does not appear pursuant to such summons, or does not assign some reasonable excuse for not appearing, or appears and refuses to be sworn or examined, shall incur a penalty not exceeding \$200.

Expenses of
witnesses.

(3) The Inspector or the visitors may direct the secretary of the Board to pay to any person who appears pursuant to the summons all reasonable expenses of his appearance and attendance, and the same shall be deemed expenses incurred by the Board in the execution of this Act and to be taken into account and paid accordingly. 3-4 Geo. V. c. 85, s. 55.

Penalty for
supplying
liquor or
drugs to
inmates.

56. Every person who knowingly gives, conveys, or supplies to any patient detained in any sanitarium any intoxicating liquor or morphia, cocaine or other drug without the order of the superintendent first obtained in writing shall incur a penalty not exceeding \$50. 3-4 Geo. V. c. 85, s. 56.

Penalty for
assisting
inmates to
escape.

57. Every one who knowingly assists directly or indirectly any patient detained in a sanitarium to escape therefrom shall incur a penalty, on summary conviction before two justices of the peace, of a sum not exceeding \$100. 3-4 Geo. V. c. 85, s. 57.

How
penalties
to be dis-
posed of.

58. All penalties when recovered shall be paid to the clerk of the peace for the county or district in which the offence was committed, to be by him applied and accounted for as hereinbefore directed with respect to money received for licenses. 3-4 Geo. V. c. 85, s. 58.

Limitation
of actions.

59. If an action is brought against any person for anything done or purporting to be done in pursuance of this

Act by and on behalf of any person who has been detained in a sanitarium and has been released therefrom, the same shall be commenced within twelve months next after his release. 3-4 Geo. V. c. 85, s. 59.

60.—(1) No prosecution for any offence against this Act shall be brought except upon the order in writing of the Board or with the consent in writing of His Majesty's Attorney-General for Ontario. Leave to prosecute.

(2) *The Ontario Summary Convictions Act* shall apply to every such prosecution. Procedure. Rev. Stat. c. 90.

(3) Every such prosecution shall be heard before a police magistrate or two justices of the peace. 3-4 Geo. V. c. 85, s. 60. Before whom.

61. The costs, charges and expenses incurred by or under any order of the Board shall be paid by the clerk of the peace for the county, and be included by him in the account of receipts and payments hereinbefore directed to be kept by him. 3-4 Geo. V. c. 85, s. 61. Costs under orders, etc., of visitors provided for.

ADMISSION OF ALCOHOLIC HABITUATES.

62. If the license so permits, an alcoholic habituate may be admitted to a sanitarium upon his voluntary application in writing if it is certified by a legally qualified medical practitioner to the satisfaction of the superintendent that the applicant is an alcoholic habituate, that he is a reasonably hopeful subject for treatment with a view to his cure, and further, that at the time of his admission he is capable of appreciating the fact that he is to be admitted as a voluntary patient. 3-4 Geo. V. c. 85, s. 62. Admission of alcoholic habituates voluntarily.

63. Such alcoholic habituate may remain a patient in the sanitarium for a period of two years and no longer; and it shall be a condition of his admission that before his admission he shall sign a pledge agreeing and consenting to remain such length of time, not exceeding one year, as, in the opinion of the superintendent, is required to effect a permanent cure of his habit, and to faithfully conform to all the rules and regulations of the sanitarium while an inmate. 3-4 Geo. V. c. 85, s. 63. Period of detention.

64. The medical superintendent shall have full authority to discharge from the sanitarium when, in his opinion, it may be advisable, any person who has been admitted to it by his own voluntary application. 3-4 Geo. V. c. 85, s. 64. Discharge of voluntary patients.

65. On petition verified by oath, presented to a judge of the county or district court of the county or district in which the alleged alcoholic habituate resides, by any relative, whe- Admission at instance of relatives or friends.

ther by blood or affinity, or, if he has no relative in Ontario, by any friend of the alleged alcoholic habituate, setting forth that the alleged habituate is a *bona fide* resident of Ontario, and is so given over to drunkenness as to render him unable to control himself, and is incapable of managing his affairs, or that by reason of such drunkenness he either squanders or mismanages his property, or places his family in danger or distress, or transacts his business prejudicially to the interest of his family or his creditors, or that he uses intoxicating liquors to such an extent as to render him dangerous to himself or others, or incurs the danger of ruining his health and shortening his life thereby, and praying that a hearing and examination of the matters and allegations set forth in the petition may be had, the judge shall direct that a copy of the petition shall forthwith be served upon the alleged alcoholic habituate, and with such copy there shall be served an appointment signed by the judge, appointing a time and place for the hearing of the matters and allegations contained in the petition, and such service shall be at least eight clear days before the time fixed for the hearing. 3-4 Geo. V. c. 85, s. 65.

Hearing the petition.

66. The judge shall attend at the time and place named in the appointment and then and there proceed to inquire into the matters and allegations set forth in the petition: but he may in his discretion adjourn the enquiry from time to time. 3-4 Geo. V. c. 85, s. 66.

Powers of Judge.

67. The judge shall have the same powers as to summoning witnesses, enforcing their attendance and the production of documents as in proceedings in the county or district court; and each party may retain counsel to conduct the proceedings and to examine witnesses. 3-4 Geo. V. c. 85, s. 67.

Rights of parties.

Order for admission and detention.

68.—(1) If the judge upon such enquiry finds the person petitioned against to be an alcoholic habituate and so given over to drunkenness as to render him unable to control himself and incapable of managing his affairs, or that on that account he squanders or mismanages his property, or places his family in danger or distress, or transacts his business prejudicially to the interest of his family or his creditors, or that he uses intoxicating liquors to such an extent as to render him dangerous to himself or others, or incurs the danger of ruining his health or shortening his life, the judge may order him to be admitted to and detained in the sanitarium for a period not exceeding two years.

Arrangements.

(2) Before such order is made the judge shall ascertain that there is a vacancy in such sanitarium, and that satisfactory arrangements have been made with the medical superintendent thereof for the payment of the maintenance of such alcoholic habituate.

(3) The order for the conveyance of the alcoholic habituate to the sanitarium may be carried out by the sheriff or by any other person to whom it is directed. 3-4 Geo. V. c. 85, s. 68.

69. If an inmate of the sanitarium, admitted or committed under sections 62 or 68, escapes therefrom any officer or servant of the sanitarium or any other person at the request of the superintendent may, within forty-eight hours after such escape, or within one month thereafter when a warrant has been issued by the superintendent in that behalf, retake such escaped person and return him to the sanitarium where he shall remain under the authority by virtue of which he was detained prior to such escape. 3-4 Geo. V. c. 85, s. 69.

70. All the provisions of this Act relating to alcoholic habituates shall extend *mutatis mutandis* to every person who is a drug habituate. 3-4 Geo. V. c. 85, s. 70.

71. Sections 8 and 9 of *The Prisons and Public Charities Inspection Act* shall apply to sanitarium. 3-4 Geo. V. c. 85, s. 71.

FORM 1.

(Section 25.)

REQUISITION FOR THE RECEPTION OF A PATIENT.

I, the undersigned, hereby request you to receive A.B., a person, mentally diseased, as a patient into your sanitarium.

Name.

[State occupation (if any) his place of abode, degree of relationship, if any, or other circumstances of connection with the patient.]

1. Name of Patient, with Christian name at length.
2. Sex and age.
3. Married, single, or widowed.
4. Condition of life and previous occupation (if any).
5. Previous place of abode.
6. Religious persuasion, so far as known.
7. Duration of existing attack.
8. Whether first attack.
9. Age (if known) on first attack.
10. Whether subject to epilepsy.
11. Whether suicidal or dangerous to others.
12. Previous place of confinement (if any).
13. Special circumstances (if any) preventing the patient being examined, before admission, separately by two physicians.
14. Special circumstances (if any) preventing the insertion of any of the above particulars.

Dated this day of , 19 .

(Signed) Name.

To

Proprietor (or, Superintendent) of
(describing sanitarium by situation and name, if any)

3-4 Geo. V. c. 85, Form 1.

FORM 2.

(Sections, 25, 26.)

FORM OF MEDICAL CERTIFICATE.

I, (state degree or qualification), being a legally qualified medical practitioner, hereby certify that I have this day, separately from any other medical practitioner, visited and personally examined A.B., the person named in the accompanying statement and requisition, and that the said A.B. is a person suffering from mental disease, and a proper person to be confined, and that I have formed this opinion from the following fact (or facts), viz.:

(Signed,) Name.

Place of abode.

Dated this day of , 19 .

3-4 Geo. V. c. 85, Form 2.

Witness }

FORM 4.

(Section 35.)

NOTICE OF ADMISSION.

I hereby give you notice, that A.B. was received into this sanitarium as a patient, on the _____ day of _____, and I herewith transmit a copy of the requisition and Medical Certificates (or Certificate) on which he was received.

Subjoined is a statement with respect to (his or her) mental and bodily condition.

(Signed), _____ Name.

Superintendent (or Proprietor) of

Dated this day of , 19

STATEMENT.

I have this day seen and personally examined A.B., the patient named in the above notice, and hereby certify that, with respect to mental state, he (or she), _____, and that, with respect to bodily health and condition, he (or she) _____.

(Signed), _____ Name. _____

Medical Proprietor (or Superintendent,
or Attendant), of

Dated this day of , 19

FORM 6.

(Section 37.)

FORM OF NOTICE OF DISCHARGE OR DEATH.

I hereby give you notice that a patient received
 into this sanitarium for mental diseases on the _____ day of _____
 was discharged therefrom, recovered (or relieved, or
 not improved) (or was removed therefrom) by the authority of
 (or died therein) on the _____ day of _____

(Signed)

Name.

Superintendent (or Proprietor)
 of house at _____

Dated this _____ day of _____, 19 _____

*In case of death, add—*and I further certify that A.B. was present
 at the death of the said _____, and that the apparent cause
 at the death of the said _____ (ascertained by post
 mortem examination, if so) was _____

3-4 Geo. V. c. 85, Form 6.

FORM 7.

(Section 55.)

FORM OF SUMMONS.

We, (names in full) _____ being two of
 the visitors appointed under *The Private Sanitarium Act*, do hereby
 summon and require you personally to appear before us at
 _____ in _____ on _____
 the _____ day of _____, at the hour of _____
 in the _____ noon of the same day, and then and there to be
 examined, and to testify the truth touching certain matters relating
 to the execution of the said Act.

Given under our hands and seals, this _____ day of _____
 in the year of our Lord, 19 _____

3-4 Geo. V. c. 85, Form 7.

CHAPTER 297.

An Act respecting The Hospital for Epileptics.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Hospital for Epileptics* Short title.
Act.
2. The hospital for epileptics, established at the City of Woodstock, with all the lands, buildings and appurtenances, and any land hereafter purchased or acquired for the same, and any buildings hereafter erected thereon shall be for the public use of the Province, and shall be known and designated as "The Hospital for Epileptics." 6 Edw. VII. c. 60, s. 1. Designation of Hospital.
3. The object and design of such hospital shall be to secure the curative and economical care and treatment of epileptics, other than insane epileptics. 6 Edw. VII. c. 60, s. 2. Object.
4. The Inspector of Asylums for the insane, appointed under *The Prisons and Public Charities Inspection Act*, shall be the Inspector of the hospital, and shall have the same powers and perform the same duties in respect to it as are imposed upon him in respect of asylums for the insane by that Act. 6 Edw. VII. c. 60, s. 3. Inspector. Rev. Stat. c. 321.
5. The Lieutenant-Governor in Council may from time to time appoint for the hospital a Medical Superintendent, a Bursar, a Matron, and such other officers, instructors, attendants and servants as he may deem necessary, who shall hold office during pleasure, and shall perform such duties as may be assigned to them under the regulations respecting the hospital and in accordance with the directions of the Inspector. 6 Edw. VII. c. 60, s. 4. Officers appointment of.
6. The Inspector shall make regulations for
 - (a) the management, discipline, and general administration of the said hospital; Inspector to make rules and regulations respecting management.
 - (b) prescribing the duties of the Superintendent, Bursar, Matron, and such other officers, instructors, attendants or servants as are employed in or about the hospital; Respecting duties of officers.

Inspector to make rules and regulations for fixing and determining admissions, etc.

- (c) determining the terms and conditions of admission to the hospital of persons certified in the manner provided for by the next following section and for their discharge therefrom;

Maintenance of inmates.

- (d) the support and maintenance of such persons; 6 Edw. VII. c. 60, s. 7.

Rules and regulations to be approved of by Lieutenant-Governor in Council.

but such rules or regulations shall not have any effect until approved of by the Lieutenant-Governor in Council. 6 Edw. VII. c. 60, ss. 5 and 7.

No admission without certificate of medical practitioner.

7. No person shall be received into the hospital without a certificate from a legally qualified medical practitioner, that after a proper examination of him and due enquiry into all the facts relating to his case, he is found to be a sane epileptic. 6. Edw. VII. c. 60, s. 6.

CHAPTER 298.

An Act respecting Sanatoria for Consumptives.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Sanatoria for Consumptives Act*. 3-4 Geo. V. c. 86, s. 1. Short title.

2. In this Act,

Interpretation

“Board” shall mean the corporation mentioned in sub-section 1 of section 10. 3-4 Geo. V. c. 86, s. 2. “Board.”

3. Subject to the provisions of this Act, the corporation of any municipality or the corporation of any two or more municipalities may establish a sanatorium for the treatment of consumptives, and may for that purpose acquire land or interests therein and erect and equip buildings and other improvements thereon, and do such other things as may be necessary to complete, maintain and operate such sanatorium and carry out the objects and requirements of this Act. 3-4 Geo. V. c. 86, s. 3. Establishment of sanatoria by municipalities.

4. The corporation of any municipality may procure or join another or others in procuring plans of buildings and improvements for a sanatorium and estimates of the cost, including that of the proposed site, and such other information as may seem desirable, and the corporations of any two or more municipalities may confer by such representatives as their councils may appoint, with a view to agreeing upon a basis for establishing a joint sanatorium, and may enter into a provisional agreement respecting the same. 3-4 Geo. V. c. 86, s. 4. Joint action by two or more municipalities.

5. If the corporation of one municipality only is establishing the sanatorium, a provisional by-law respecting the same shall be passed. 3-4 Geo. V. c. 86, s. 5. Provisional by-law.

6.—(1) The plans and estimates, and the provisional by-law or provisional agreement, as the case may be, and the proposed site, which may be anywhere within Ontario, shall be submitted to the Provincial Secretary who shall refer the same to the Provincial Board of Health for report. Reference of plans, site, etc., to Provincial Board of Health.

(2) Upon receiving the report the Provincial Secretary may approve of the plans, estimates, provisional by-law or Approval by Provincial Secretary.

agreement, as the case may be, and the site, subject to such modifications and alterations, if any, as he may think best.

Where site not
in either muni-
cipality.

(3) If the proposed site is not within the municipality or one of the municipalities, the Provincial Secretary shall, before approving of the site, transmit by post to the head of the municipality in which it is situate, notice of the application. 3-4 Geo. V. c. 86, s. 6.

By-laws for
raising neces-
sary funds.

7. Upon the approval of the Provincial Secretary being given, the council of the municipality, or of each of the municipalities concerned, as the case may be, may pass by-laws for raising the money proposed to be paid or contributed by the corporation of such municipality in respect of the original cost of the sanatorium or the cost of extensions, alterations and additions, and may issue debentures therefor. 3-4 Geo. V. c. 86, s. 7.

By-laws for
establishment
of sanatoria.

8.—(1) Upon the by-law or by-laws being passed, the corporation or corporations concerned may pass by-laws to establish the sanatorium or to enter into the agreement to establish a joint sanatorium, as the case may be, in accordance with the approval given by the Provincial Secretary.

Approval of
extensions,
etc., by
Provincial
Secretary.

(2) Upon by-laws being passed for raising the money proposed to be paid or contributed in respect of the cost of extensions, alterations and additions, the approval by the Provincial Secretary of the plans thereof shall be obtained in the same way as provided by section 6, and upon such approval being given, the extensions, additions and alterations may be proceeded with by the corporation or corporations concerned. 3-4 Geo. V. c. 86, s. 8.

Board of
trustees.

9.—(1) The by-law or agreement establishing a sanatorium or a joint sanatorium shall provide for the appointment of a Board of not less than five trustees to take charge of and manage the same.

Qualification.

(2) The qualifications and term of office, which shall not exceed five years, and the quorum of the trustees, and the manner of appointing their successors and of filling vacancies, shall be provided for in the by-law or agreement; and the trustees shall hold office until their successors are appointed.

Proportion
of yearly
cost.

(3) The agreement for a joint sanatorium shall state the proportion of the yearly cost of maintenance, operation and repairs to be borne by the corporation of each municipality.

Terms of
admission.

(4) The by-law or agreement may also define the terms and conditions on which patients may be admitted into the sanatorium, and contain such other particulars as may be deemed proper. 3-4 Geo. V. c. 86, s. 9.

10.—(1) The trustees and their successors shall be a corporation under the name of "The Trustees of (*naming the sanatorium*)."

Name of corporation.

(2) In addition to the powers and duties conferred by this Act, the trustees shall have such powers and duties, not inconsistent with this Act, as may be conferred or imposed upon them by the by-law or agreement, or by any future by-law or agreement passed or entered into by or with the municipal corporation or corporations with the approval of the Provincial Secretary. 3-4 Geo. V. c. 86, s. 10.

Powers and duties.

11.—(1) The trustees shall elect yearly one of their number to be chairman of the board, to hold office for one year and thereafter until his successor as chairman is elected; and a vice-chairman may also be similarly elected.

Chairman and vice-chairman.

(2) The Board shall appoint a secretary. 3-4 Geo. V. c. 86, s. 11.

Secretary.

12.—(1) The property acquired for the sanatorium shall be conveyed to and vested in the Board for the uses and purposes thereof.

Property vested in trustees.

(2) The Board may, without the consent of the owner thereof or any person interested therein, enter upon, take, use and expropriate all such land as the Board may deem necessary for the purposes of the sanatorium, making due compensation therefor to the owner or occupier thereof, and all persons having any interest therein.

Power to expropriate land for sanatorium.

(3) If such land is required for the purpose of enlarging or otherwise improving an existing sanatorium, the powers conferred by subsection 2 shall not be exercised unless the Inspector of Prisons and Public Charities reports that it is necessary for the purpose of the sanatorium and approves of the plans and improvements for which the land is required, and his report is approved by the Lieutenant-Governor in Council.

When approval of Lieut.-Governor in Council required.

(4) The provisions of *The Municipal Act* as to taking land compulsorily and making compensation therefor, and as to the manner of determining and paying the compensation, shall *mutatis mutandis* apply to the Board and to the exercise by it of the powers conferred by subsection 2; and when any act is by any of such provisions required to be done by the clerk of a municipality, or at the office of such clerk, the like act shall be done by the secretary of the Board or at his office, as the case may be. 3-4 Geo. V. c. 86, s. 12.

Application of Municipal Act. Rev. Stat. c. 192.

13. The Board shall, subject to the terms of the by-laws or agreements relating thereto, and to regulations made by the Lieutenant-Governor in Council, have the control and management of the erection of the buildings and improve-

Property, etc. to be under control of trustees.

ments and of the operation and maintenance of the sanatorium and of all matters and things connected therewith or relating thereto, and may make rules respecting the same, not inconsistent with the terms of the said by-laws or agreements or of this Act, or with the regulations of the Lieutenant-Governor in Council. 3-4 Geo. V. c. 86, s. 13.

Regulations
by Lieutenant-
Governor in
Council.

14. The Lieutenant-Governor in Council may make regulations respecting the inspection and management of the sanatorium; and such regulations shall take effect and be complied with, notwithstanding the terms of any regulation of the board, which, so far as inconsistent with those made by the Lieutenant-Governor in Council, shall be inoperative. 3-4 Geo. V. c. 86, s. 14.

Provincial aid
towards
establishment.

15. The Lieutenant-Governor in Council may, out of the Consolidated Revenue Fund, grant to the Board a sum equal to one-fifth of the value, as reported by the Inspector of Prisons and Public Charities, of the site, buildings, improvements and equipment, extensions, additions and alterations, not exceeding with respect to any one sanatorium \$4,000 in all. 3-4 Geo. V. c. 86, s. 15.

Provincial
aid towards
maintenance.

16.—(1) The Lieutenant-Governor in Council may, out of any money appropriated by this Legislature for the purpose, pay to the Board, towards the maintenance and treatment of patients, for each patient for whose maintenance not more than 70 cents per day is contributed and who was prior to admission a resident of Ontario, a sum at the rate of \$3 per week for each patient.

Municipal
aid.

(2) The treasurer of any municipality, which has not established, or which is not a party to an agreement under which a joint sanatorium is established, by which patients admitted from such municipality to a sanatorium are to be maintained, shall out of the money of the corporation pay to the Board such sum, not exceeding seventy cents per day, as may be required by the trustees for the maintenance and treatment of each indigent patient who was resident in the municipality at the time of admission. 3-4 Geo. V. c. 86, s. 16.

Provision for
residue of
yearly
maintenance.

17.—(1) The corporation or corporations establishing a sanatorium or joint sanatorium shall, with the yearly rates and in the proportions provided for in the agreement, levy the money required to meet the residue of the cost of the maintenance, operation and repair of the sanatorium for the year and pay over the same to the Board.

In accordance
with by-law,
etc.

(2) Nothing in this section shall authorize the Board to incur any liability or make any expenditure not authorized by the by-law or agreement establishing the sanatorium, or by by-law or resolution of the councils of the municipalities concerned. 3-4 Geo. V. c. 86, s. 17.

18. Nothing in this Act shall prevent a municipal corporation which has established a sanatorium from closing the same at any time, either temporarily or permanently. Closing.
sanatorium.
3-4 Geo. V. c. 86, s. 18.

19. If a sanatorium is closed for nine consecutive months, the Lieutenant-Governor in Council may make provision for the sale or other disposition of the sanatorium and the property thereof and for the application of the proceeds, and may make such other provisions relating thereto as he may deem proper. Disposal of
same.
3-4 Geo. V. c. 86, s. 19.

20. The property acquired for a sanatorium and vested in the board shall be exempt from all municipal or other taxation, including school rates or taxes. Exemption
from
taxation.
3-4 Geo. V. c. 86, s. 20.

21. The Board may accept from any person a donation of property, whether by will or otherwise, for the use of the sanatorium, and may apply the same in accordance with the terms of the donation. Accepting
donations.
3-4 Geo. V. c. 86, s. 21.

22.—(1) The corporation of any municipality or the corporations of any two or more municipalities may agree with any association duly incorporated for the establishment and maintenance by such association of a sanatorium for the treatment of consumptives and for contributing towards the cost and maintenance of any sanatorium heretofore established, or which may be hereafter established and of any extensions, alterations or additions thereto; and the councils thereof shall have similar powers to those conferred by this Act for procuring plans, estimates and other information and the basis for establishing any sanatorium and as to the location thereof, within or without the municipality, and may from time to time pass by-laws for raising the money, if any, proposed to be paid or contributed by the municipality in respect of the sanatorium and for the issue of debentures therefor. Agreement
with an
association for
treatment of
consumptives,
etc.

(2) The plans, estimates, and agreement and proposed site shall be submitted for the approval of the Provincial Secretary in a manner similar to that provided by sections 6 and 8, and upon such approval being given the agreement may be acted upon. Plans and
estimates.

(3) The parties to such agreement may make such changes in or modifications thereof, as may be required by the Provincial Secretary as a condition of his approval. Modifications.

(4) Sections 14, 15, 16 and 20 shall apply to a sanatorium established under this section and to the trustees of an association and to any sanatorium heretofore established or which may hereafter be established by such association. Application
of ss. 14,
15, 16 and
20.
3-4 Geo. V. c. 86, s. 22.

Application
of Rev. Stat.
c. 300.

23. Sections 9, 10, 11, 12, 13, 16, 23, and 25 of the *Hospitals and Charitable Institutions Act* shall also apply to any sanatorium for consumptives. 3-4 Geo. V. c. 86, s. 23.

Limitation
of charge
for indigent
patient.

24. No sanatorium shall charge against a municipal corporation for the maintenance of an indigent patient a higher rate than seventy cents per day. 3-4 Geo. V. c. 86, s. 24.

CHAPTER 299.

An Act respecting The Toronto General Hospital.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Toronto General Hospital* Short title.
Act. 3-4 Geo. V. c. 84, s. 1.

INTERPRETATION.

2. In this Act, Interpreta-
tion.

- (a) "Board" shall mean the Trustees of the Toronto "Board."
General Hospital;
- (b) "Hospital" shall mean the Toronto General Hos- "Hospital."
pital;
- (c) "Subscribers" shall mean benefactors and annual "Subscrib-
ers." subscribers as defined by this Act. 3-4 Geo. V. c. 84, s. 2.

GOVERNMENT OF HOSPITAL.

3. The Toronto General Hospital and the property, Election and
appointment
of trustees. revenues, business and affairs thereof shall continue to be under the government, management, conduct and control of a Board of twenty-five trustees, of whom eight shall be appointed by the Lieutenant-Governor in Council, five by the Governors of the University of Toronto, and five by the municipal council of the Corporation of the City of Toronto, and seven shall be elected by the subscribers, and the trustees shall continue to be a body corporate by the name of "The Trustees of the Toronto General Hospital." 3-4 Geo. V. c. 84, s. 3.

4. The members of the Board now in office shall hold office Present
members. for the remainder of the respective terms for which they were appointed or elected and until their successors are chosen. 3-4 Geo. V. c. 84, s. 4.

5.—(1) The trustees hereafter appointed by the Corpor- Term of
office. ation of the City of Toronto shall hold office for one year and until their successors are appointed.

Idem.

(2) The trustees hereafter appointed by the Lieutenant-Governor in Council and by the Governors of the University of Toronto and those elected by the subscribers shall hold office for three years and until their successors are chosen. 3-4 Geo. V. c. 84, s. 5.

Time of
appointment
or election.

6. All trustees shall be appointed or elected in the month of January in each year in the place of those whose term of office expires. 3-4 Geo. V. c. 84, s. 6.

Eligibility for
re-appoint-
ment or re-
election.

7. A trustee whose term of office has expired shall be eligible for reappointment or re-election as the case may be. 3-4 Geo. V. c. 84, s. 7.

Members of
staff not
eligible as
Trustees.

8. A member of the Hospital staff shall not be eligible to be a trustee and if a member of the Board accepts or occupies a position on the Hospital staff or goes to reside out of Ontario, or becomes insane or otherwise incapable of acting as a member, he shall *ipso facto* vacate his office as a member of the Board, and a declaration of the existence of the vacancy entered upon the minutes of the Board shall be conclusive evidence thereof. 3-4 Geo. V. c. 84, s. 8.

Vacancies.

9. Where a vacancy occurs from any cause, it shall be filled by the body possessing power to appoint or elect, and the person appointed or elected to fill the vacancy shall hold office for the remainder of the term of the trustee whose place he is appointed or elected to fill. 3-4 Geo. V. c. 84, s. 9.

Quorum.

10. Five members shall constitute a quorum of the Board. 3-4 Geo. V. c. 84, s. 10.

ELECTION OF TRUSTEES BY SUBSCRIBERS.

Date of
election.

11.—(1) A meeting of the subscribers for the election of trustees to fill the places of retiring trustees shall be held annually on the second Tuesday of the month of January.

Casual
vacancies.

(2) Elections to fill the vacancies arising from any other cause than the expiration of the term of office shall be held at such times as the Board may by by-law or resolution appoint.

Place of
election—
Notice.

(3) The meetings shall be held at the Hospital at such hour as the Board by resolution appoints and the secretary of the Board shall for at least ten days prior to the holding of any such meeting give public notice thereof in two newspapers published daily in Toronto.

Conduct of
election.

(4) The solicitor of the Board or in his absence a person elected by the meeting shall preside, and the secretary shall act as the secretary of the meeting and shall produce a certified list of the subscribers with a statement of the amount of each subscription, and such list shall be open to public inspection.

(5) The election shall be by ballot taken by two or more scrutineers appointed by the chairman of the meeting and each subscriber shall be entitled to vote in person or by proxy under an instrument of proxy duly executed under his hand given to a subscriber entitled to vote at such election.

Mode of election.
Proxies.

(6) An instrument of proxy shall be valid for one year only.

Duration of proxy.

(7) In case of an equality of votes between two or more persons which leaves the election of one or more trustees undecided, the scrutineers shall forthwith put into a ballot box a number of papers with the names of the candidates respectively having such equality of votes written thereon, one for each candidate; and the chairman shall draw from the ballot box in the presence of the scrutineers one or more of the papers sufficient to make up the required number of trustees, and the persons whose names are upon the papers so drawn shall be the trustees elected. 3-4 Geo. V. c. 84, s. 11.

Determining election by lot in case of tie vote.

POWERS OF TRUSTEES.

12.—(1) Subject to the provisions of this Act, the Board shall have, hold, possess and enjoy all the property, rights, powers and privileges which it now has, holds, possesses or enjoys.

Powers of Trustees under present Acts continued.

(2) The Board shall be capable of receiving and taking from any person or body corporate by grant, gift, devise or otherwise any land or interest in land or any goods, chattels or effects, for the use, support or purposes of the Hospital and without license in mortmain; and all persons and bodies corporate shall have full and unrestricted right and power to give, grant, devise and bequeath to the Board any land or interest in land or any goods, chattels or effects.

Taking and holding lands without license in mortmain.

(3) No real property or interest therein vested in the Board and used for hospital purposes shall be liable to be entered upon, used or taken by any municipal or other corporation, or by any person possessing the right of taking land compulsorily for any purpose whatsoever; and no power to expropriate real property hereafter conferred on such corporation or person shall extend to such real property or interest unless in the Act conferring the power it is made in express terms to apply to such real property. 3-4 Geo. V. c. 84, s. 12.

Exemption from expropriation.

13. The building and land of and attached to or otherwise *bona fide* used in connection with and for the purposes of the Hospital, so long as such buildings and land are actually used and occupied for the purposes of the Hospital, and the personal property of the Board shall be exempt from all taxation, including school rates or taxes. 3-4 Geo. V. c. 84, s. 13.

Exemption from taxation.

Limitation
of actions.

14. All the rights and privileges belonging to or enjoyed by the Crown in respect of its land under any statute limiting the time for bringing actions either by the Crown or against the Crown shall belong to and be enjoyed by the Board in respect of land vested in the Board. 3-4 Geo. V. c. 84, s. 14.

Power to
dispose of
site on
Gerrard
Street and
other lands.

15. —(1) The Board may sell, dispose of or mortgage any land vested in it, including the block of land which on the 6th day of May, 1913, was occupied by the hospital, bounded by Gerrard, Sumach, Spruce and Sackville streets, upon such terms as to payment of purchase money as may seem best, or may lease the same for any period not exceeding twenty-one years with the right of renewal for periods not exceeding twenty-one years in perpetuity, and subject to such covenants, conditions, agreements, stipulations and provisos as may seem best; but land vested in the Board which is charged with debentures shall remain subject to such charge until the same are paid, unless sold with the consent of the holders of the debentures.

But not
on College
Street.

(2) Nothing in subsection 1 shall authorize the Board to sell the hospital which, on the 6th day of May, 1913, it was erecting on College Street or the land used in connection with it, but this restriction shall not prevent the Board from mortgaging such hospital and land nor shall it interfere with any of the remedies by way of sale or otherwise of the mortgagees. 3-4 Geo. V. c. 84, s. 15.

Power to
take lands
for Hospital.

16.—(1) The Board may without the consent of the owner thereof or any person interested therein enter upon, take, use and expropriate all such land as it deems necessary for the purposes of the hospital, making due compensation therefor to the owners and occupants thereof and all persons having any interest therein; and may pass by-laws for that purpose.

Application
of provisions of
Rev. Stat.
c. 192.

(2) The provisions of *The Municipal Act* as to taking land compulsorily and making compensation therefor and as to the manner of determining and paying the compensation, shall *mutatis mutandis* apply to the Board and to the exercise by it of the powers conferred; and where any act is by any of such provisions required to be done by the clerk of a municipality, or at the office of such clerk, the like act shall be done by the secretary of the Board, or at his office, as the case may be.

Registration
of by-laws.

(3) The Board may register any by-law passed for the purposes of subsection 1 by depositing in the proper registry office or land titles office a copy of such by-law certified under the hands of the chairman and the secretary of the Board and authenticated by its seal and the registration of the by-law shall vest the real property therein described in the Board. 3-4 Geo. V. c. 84, s. 16.

17.—(1) The Board may from time to time, with the approval of the Lieutenant-Governor in Council, borrow for the purposes of the Hospital such sums as may be required for the purposes of the Hospital, and may issue debentures therefor in such sums, at such rate of interest and for such periods as it may deem expedient. ^{Borrowing powers of Board.}

(2) No such debenture shall be issued for a longer period than forty years, and the interest shall be payable yearly, half yearly or quarterly. ^{Currency of debentures.}

(3) Such debentures may be secured by a mortgage to trustees for the debenture holders upon any land vested in the Board. 3-4 Geo. V. c. 84, s. 17. ^{Mortgage to secure debentures.}

18. The Board may invest, in such securities as may be deemed advisable, all money which may at any time come into its hands for the use and support of the Hospital, or may deposit the same in any chartered bank or financial institution of good standing. 3-4 Geo. V. c. 84, s. 18. ^{Powers as to investments.}

NEW HOSPITAL BUILDINGS.

19.—(1) Without thereby limiting the general powers hereinbefore conferred, the Board may erect, equip and maintain all buildings required for the purposes of the Hospital upon such sites as the Board may deem proper. ^{Erection of buildings, etc., for Hospital.}

(2) In the event of the Board abandoning the hospital site mentioned in section 15, it shall be the duty of the Board in erecting new hospital buildings upon another site to erect upon a portion of such site a building suitable in every respect for the purposes of a lying-in hospital, and maintain and support the same in connection with the hospital as part of it upon the terms and conditions set forth in the resolutions of The Burnside Lying-in Hospital and the Hospital authorizing the merger of The Burnside Lying-in Hospital in the Hospital; and such building shall be called "The Burnside Lying-in Hospital." ^{Burnside Lying-in Hospital.}

(3) The Board shall provide in connection with the hospital which, on the 6th day of May, 1913, it was erecting on College Street a building which shall be set aside as an eye and ear infirmary and shall be called "The Andrew Mercer Eye and Ear Infirmary." ^{"Andrew Mercer Eye and Ear Infirmary."}

(4) A section or wing of the hospital building shall be deemed to be a building within the meaning of subsections 2 and 3. 3-4 Geo. V. c. 84, s. 19. ^{Nature of buildings.}

EXECUTION OF DOCUMENTS.

20.—(1) All grants, conveyances, assignments, mortgages, statutory and other discharges of mortgage, leases, contracts, distress warrants and other documents requiring to be executed. ^{Execution of documents by corporation.}

cuted under seal shall be sealed with the corporate seal of the Board and shall be signed by the chairman or some person thereto authorized by resolution of the Board, and countersigned by the secretary or some person thereto authorized by resolution of the Board.

Negotiable
instruments.

(2) All cheques, promissory notes and drafts shall be signed by the chairman or some person thereto authorized by resolution of the Board, and countersigned by the secretary or some person thereto authorized by resolution of the Board. 3-4 Geo. V. c. 84, s. 20.

BY-LAWS.

Appointment
and removal
of officers
and staff.

21.—(1) The Board shall appoint and may remove a secretary, a treasurer, the medical and other superintendents and their assistants and clerks, and all other officers and servants of the Board, and may enact by-laws and regulations for the management of the Hospital and the trust, and for fixing all salaries and wages, and, subject to section 27, for regulating the composition of the hospital staffs, their numbers, terms of office, privileges and duties.

By-laws and
regulations.

(2) Such by-laws or regulations shall be laid before the Lieutenant-Governor in Council within thirty days after the same have been enacted, and shall not come into force until approved by him. 3-4 Geo. V. c. 84, s. 21.

BENEFACTORS, VISITORS AND ANNUAL SUBSCRIBERS.

"Benefac-
tors."

22.—(1) Every person who before the 14th day of May, 1906, has subscribed \$500 or upwards to the fund of the Hospital, and every person who has since subscribed or may hereafter subscribe \$1,000 or upwards shall be a "Benefactor" of the Hospital, and the Board shall erect a tablet in the principal entrance hall of the Hospital upon which shall be inscribed the names of the Benefactors and the amounts subscribed by them respectively.

Visitors.

(2) The Benefactors shall be Visitors of the Hospital. 3-4 Geo. V. c. 84, s. 22.

Who be
deemed
"annual
subscriber."

23. Every person who shall have subscribed \$100 or upwards to the fund of the Hospital in the year immediately preceding an election of subscribers' trustees at which he desires to vote shall be an "Annual Subscriber." 3-4 Geo. V. c. 84, s. 23.

MEDICAL STUDENTS.

Right of
medical
students to
attend
Hospital.

24.—(1) The Board shall allow any medical student of the University of Toronto to visit the wards of the Hospital and attend them for the purpose of receiving instruction from the members of the Faculty of Medicine of the University

upon the payment of such fees and under such regulations and restrictions as the Board by by-law or resolution appoints.

(2) The Lieutenant-Governor in Council may from time ^{Regulations.} to time make regulations and prescribe conditions under which the Board shall admit other students in medicine, including post-graduate students, to receive medical instruction from such Faculty as provided by subsection 1. 3-4 Geo. V. c. 84, s. 24.

PAYING PATIENTS.

25.—(1) The Board shall allow every patient paying sufficient to cover all the cost to the Board of his maintenance and support while in the Hospital to employ his own surgeon or physician, subject to the regulations of the Board. ^{Right of paying patients to attendance of their own physician.}

(2) The words "paying their way," where they occur in the 7th section of By-law No. 4579 of the City of Toronto, shall mean "paying sufficient to cover all the cost to the Board of their maintenance and support while in the Hospital." 3-4 Geo. V. c. 84, s. 25. ^{"Paying their way."}

CITY PATIENTS.

26. The Board shall afford accommodation as far as possible to patients sent into the Hospital on the order of the Corporation of the City of Toronto, upon payment to the Board of such rates as may from time to time be agreed upon, and subject to such regulations and restrictions as the Board may by by-law or resolution appoint. 3-4 Geo. V. c. 84, s. 26. ^{Patients sent from City of Toronto.}

THE HOSPITAL STAFF.

27. The composition and number of the Hospital staff, and the terms of office, the duties and the privileges of the members thereof shall be regulated by and be in accordance with the agreement between the Governors of the University of Toronto and the Board and the by-law of the Board set out in Schedule 1 to the Act passed in the first year of His Majesty's reign, Chapter 80, intituled *An Act respecting the Toronto General Hospital*. 3-4 Geo. V. c. 84, s. 27. ^{Hospital staff.} ^{1 Geo. V. c. 80.}

STATEMENTS TO GOVERNMENT.

28. In addition to the returns required by any other Act, ^{Returns.} the Board, when required so to do by the Lieutenant-Governor in Council, shall render an account in detail of all money received by it, specifying the sources from which the same arose or was received and the manner in which the same is invested or was expended and all such particulars as may be necessary to show the state of the fund and endowment of the Hospital. 3-4 Geo. V. c. 84, s. 28.

CHAPTER 300.

An Act relating to Hospitals and Charitable Institutions.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Hospitals and Charitable Institutions Act*. 2 Geo. V. c. 85, s. 1.

PART I.

PUBLIC HOSPITALS AND CHARITABLE INSTITUTIONS.

Mode of distributing aid under Act.

2. All money appropriated by this Legislature for the purposes of this Act shall be distributed as follows—

- (a) For every Public Hospital, a per diem rate fixed from time to time by the Lieutenant-Governor in Council upon the basis of the number of days' actual treatment and stay of each patient admitted to or being within the hospital during the calendar year next preceding the year for which such aid is given;
- (b) For every refuge on the list of such institutions entitled to receive aid, 7 cents for each day's actual maintenance therein of any indigent person during the calendar year preceding that for which the aid is given;
- (c) For every orphanage or infants' home on the list of such institutions entitled to receive aid, 2 cents for each day's actual maintenance therein of any orphan or neglected or abandoned child during the calendar year next preceding that for which aid is given, and in the case of an infant under one year of age while being nursed by its mother at such orphanage or infants' home, 7 cents per day for each day's maintenance;
- (d) For every such orphanage or infants' home, 7 cents per day for each day's actual maintenance of any adult, friendless and indigent female cared for therein during the calendar year next preceding that for which aid is given. 2 Geo. V. c. 85, s. 2.

3. Every grant made under the authority of the next preceding section shall be conditional upon compliance with the requirements of this Act and of all regulations made thereunder by the Lieutenant-Governor in Council and shall be subject to the restrictions hereinafter contained. 2 Geo. V. c. 85, s. 3.

4. Where the receipts of any hospital, refuge, orphanage or infants' home are equal to or exceed, without reckoning any aid received under this Act, the expenditure for maintenance of patients or inmates no aid shall be granted to such institution under this Act unless the Lieutenant-Governor in Council otherwise directs. 2 Geo. V. c. 85, s. 4.

5. The aid granted to any hospital or refuge under this Act, except in unorganized districts, unless the Lieutenant-Governor in Council otherwise directs, shall not for any year exceed the amount of the municipal grant for its maintenance during that year. 2 Geo. V. c. 85, s. 5.

6.—(1) No hospital shall be entitled to receive aid in respect of paying patients admitted to or being within it.

(2) Every person admitted to or being within any such hospital who pays, or for whom there is paid, to such hospital from any source, other than the public funds or money of the Province or of a municipal corporation, a weekly sum in excess of \$7 shall be deemed a paying patient.

(3) No aid shall be paid to any hospital which is hereafter established in any municipality in which a hospital already exists and is in operation unless such additional hospital is established with the approval of the Lieutenant-Governor in Council.

(4) Subsections 1 and 2 shall not apply to a hospital which has not received aid for a period of ten years. 2 Geo. V. c. 85, s. 6.

7. In calculating the amount of the aid the day of departure of any patient or person shall not be included.

8.—(1) The Lieutenant-Governor in Council may limit the number of days' stay of different classes of patients or inmates for which aid may be given.

(2) Every Order in Council made under the authority of this section shall be laid before the Assembly as soon as conveniently may be. 2 Geo. V. c. 85, s. 8.

9. The Treasurer of Ontario, with the authority of the Lieutenant-Governor in Council, may, from any money appropriated for that purpose, pay at such times in every year as the Lieutenant-Governor in Council deems fit to any

institution entitled to receive aid under this Act the sums to which it is entitled. 2 Geo. V. c. 85, s. 9.

Returns.

10. The Lieutenant-Governor in Council may fix and direct the particulars to be contained in, and the form, manner and time of making and mode of verification of such returns as may seem proper for the due carrying out of the provisions of this Act. 2 Geo. V. c. 85, s. 10.

Penalty in case of false return.

11. Any person who knowingly makes, or is a party to the making or procuring to be made, directly or indirectly, of any false return shall incur a penalty of \$1,000 which may be recovered with costs by action at the suit of the Crown only. 2 Geo. V. c. 85, s. 11.

Inspector.

12. One of the Inspectors of Prisons and Public Charities, designated for that purpose by the Lieutenant-Governor in Council, shall be the Inspector of the institutions receiving aid under this Act. 2 Geo. V. c. 85, s. 12.

Duties of Inspector.

13. The Inspector shall from time to time visit and inspect every such institution and shall make all proper inquiries as to the maintenance, management and affairs thereof; and by examination of the registers and such other means as he may deem necessary verify any return which has been made and shall report thereon to the Lieutenant-Governor in Council. 2 Geo. V. c. 85, s. 13.

Designation of institutions to receive aid.

14.—(1) The Lieutenant-Governor in Council may designate the hospitals, refuges, orphanages and infants' homes to which aid may be granted; but no institution shall be so designated unless the Inspector reports that it has all the proper requirements for one of its nature and objects and that it ought to be aided under this Act.

Submission and operation of Order in Council.

(2) The Order in Council shall be laid before the Assembly as soon as conveniently may be and shall not be operative unless and until it has been ratified by the Assembly. 2 Geo. V. c. 85, s. 14.

Discontinuance of aid.

15. The Lieutenant-Governor in Council may, upon the report of the Inspector that any hospital, refuge, orphanage or infants' home is insufficient or without the necessary and proper accommodation or requirements for one of its nature and objects, direct that any institution receiving aid shall not thereafter receive aid, and thereupon, and whilst the order in terms remains unrevoked, such institution shall not be entitled to or receive further aid, but upon the report of the Inspector he may revoke the order and may also if he sees fit direct that the institution shall receive aid for the period or any part of the period during which the first named Order in Council was in force. 2 Geo. V. c. 85, s. 15.

Resumption of aid.

16. No by-laws or regulations of the trustees or other governing body having the control or management of any hospital, refuge, orphanage or infants' home receiving aid for the government and management of such institution, or for prescribing the method and terms of admission thereto, or defining and regulating the duties and powers of the officers and servants thereof, or the salaries of such officers and servants, shall have force or effect unless and until approved by the Lieutenant-Governor in Council upon the report of the Inspector. 2 Geo. V. c. 85, s. 16.

Approval of
by-laws by
Lieuten-
ant-Governor
in Council.

17.—(1) Every hospital receiving aid under this Act shall provide reasonable facilities for giving, by such of its staff as may be designated Professors and members of the teaching staff of the Medical Faculty of any University situate in or near to the place in which the hospital is situate, clinical instruction in the public wards thereof to the medical students of such University, and if the authorities of the hospital and of the University are unable to agree as to the nature and extent of the facilities to be granted, or the regulations under which they are to be made use of, the same shall be determined by the Lieutenant-Governor in Council.

Clinical
instruction
in hospitals.

(2) Nothing in this section shall prejudice or interfere with any agreement existing between any university and any hospital. 2 Geo. V. c. 85, s. 17.

Existing
agreements
with
universities.

18. Training Schools for Nurses may be conducted at hospitals receiving aid under this Act, and when such regulations in relation thereto as may be prescribed by the Lieutenant-Governor in Council have been observed graduate nurses of such Training Schools may be entitled to registration in a Register kept for that purpose under the direction of the Provincial Secretary, and a person so registered may be designated a registered nurse. 2 Geo. V. c. 85, s. 18.

Registration
of Nurses.

19. No hospital receiving aid shall refuse to admit and care for a patient having tubercular disease. 2 Geo. V. c. 85, s. 19.

Admission of
consumptives.

20. No hospital receiving aid shall refuse to admit and care for any sick person brought to it while suffering from any disease other than a communicable disease, notice of which is by *The Public Health Act* or by the regulations thereunder required to be placarded. 2 Geo. V. c. 85, s. 20.

What patients
may be refused
admission.

Rev. Stat.
c. 218.

21. If a contravention of either of the next preceding two sections is reported to the Inspector, and if on investigation the report is found to be correct, the aid may be withdrawn in the manner provided by section 15, and shall not be restored except in the manner provided by that section. 2 Geo. V. c. 85, s. 21.

Withdrawal
of aid on
contraven-
tion of sec-
tions 19
or 20.

Right to
take lands.

22.—(1) The trustees or other governing body of any hospital receiving aid may expropriate any land adjacent to the hospital for the purpose of enlarging it.

Conditions of
exercising
right.

(2) The power conferred by subsection 1 shall not be exercised unless the Inspector reports that it is necessary for the purposes of the hospital and approves of the plans of additions and improvements for which the land is required and his report is approved by the Lieutenant-Governor in Council.

Application of
Rev. Stat.
c. 192.

(3) The provisions of *The Municipal Act* as to taking land compulsorily and making compensation therefor and as to the manner of determining and paying the compensation shall *mutatis mutandis* apply to the trustees or other governing body and to the exercise by them of the powers conferred by subsection 1 and where any act is by any of such provisions required to be done by the clerk of a municipality or at the office of such clerk, the like act shall be done by the superintendent of the hospital, or at his office as the case may be. 2 Geo. V. c. 85, s. 22.

Burial
expenses.

23.—(1) The corporation of the municipality in which an indigent person admitted to a hospital receiving aid under this Act is at the time of his admission resident shall be liable to pay to the governing body of the hospital the charges for his treatment, and, in the case of his death his burial expenses, not exceeding \$15.

Municipal
grants to
hospitals
under agree-
ment, as to
indigent
patients.

(2) A municipal corporation may agree with the trustees or other governing body of the hospital to pay a fixed annual grant in lieu of its liability for the maintenance of the indigent patients admitted to such hospital from the municipality.

When no
agreement.

(3) Where there is no such agreement, and an indigent person is admitted as a patient to any hospital receiving aid under this Act, the superintendent of such hospital shall by registered post notify the clerk of the municipality of which such patient represents himself as being a resident that he has been admitted to the hospital, giving such particulars as may be ascertainable to enable the clerk to identify the patient.

Residence
admitted.

(4) Unless the clerk within fourteen days after the mailing of such notice notifies the superintendent of the hospital by registered post that such patient is not a resident of that municipality, he shall be deemed to be a resident of it.

Recovery
of charge
from munici-
pality.

(5) Upon the discharge or death of a patient who was or under subsection 3 is deemed to have been a resident of the municipality at the time of his admission, the superintendent of the hospital shall give notice thereof by registered post to the clerk of the municipality, and shall furnish a statement of the claim of the hospital in respect of such

patient, and the corporation of the municipality shall be liable for and shall pay the amount of such claim.

(6) Where a patient is admitted to a hospital from territory without municipal organization, in which he was employed immediately prior to his admission to the hospital, the superintendent shall notify his employer in the same manner as provided for in subsection 3, and such employer shall be liable for the maintenance of the patient. Patients from un-organized townships.

(7) Every employer of labour having more than ten persons in his employ and having a contract for the medical and surgical care of his employees shall be liable for the maintenance of such employee in any Public Hospital; but not at a higher rate than the actual cost per day for maintenance at such hospital. 2 Geo. V. c. 85, s. 23. Liability of employers for maintenance.

24. No hospital shall charge against a municipal corporation for the maintenance of an indigent patient a higher rate than \$1 per day. 2 Geo. V. c. 85, s. 24. Limitation of charge for indigent patient.

25. Upon payment by a municipal corporation of the charges of a hospital for the treatment or burial of a patient such patient or his executors or administrators shall be liable for the amount so paid as for a debt due to such municipal corporation. 2 Geo. V. c. 85, s. 25. Liability of patient or his estate to municipality.

PART II.

PRIVATE HOSPITALS.

26. In this Part, Interpretation.

(a) "House" shall include any building, tent or other structure, whether permanent or temporary, intended for human habitation; and where there are two or more such structures in the occupation of the same person and situate on the same piece of land they shall be deemed to constitute a single house within the meaning of this Act; "House."

(b) "Maternity hospital" shall mean a private hospital for the reception and care of patients in or in respect of child-birth; "Maternity hospital."

(c) "Medical and surgical hospital" shall mean a private hospital for the reception of any class of patients other than those last mentioned; "Medical and surgical hospital."

(d) "Patient" shall mean a person received and lodged in a private hospital; "Patient."

(e) "Private hospital" shall mean a house in which two or more patients are received and lodged at the same time other than "Private hospital."

- (i) An institution to which Part I applies,
- (ii) A hospital or other establishment wholly or mainly supported by Provincial aid,
- (iii) An institution in respect of which a license under *The Private Sanitarium Act* is in force, or
- (iv) An institution for the reclamation and cure of habitual drunkards established under *The Municipal Act*. 2 Geo. V. c. 85, s. 26.

Rev. Stat.
c. 296.

Rev. Stat.
c. 192.

License for
hospital.

27.—(1) No house shall be used as a private hospital except under the authority of a license issued by the Provincial Secretary under this Act.

Penalty.

(2) If any house is used as a private hospital in breach of this section the occupier and all persons concerned in the management of the hospital shall severally incur a penalty not exceeding \$25 for every day during which such use is continued. 2 Geo. V. c. 85, s. 27.

Application
for license.

28.—(1) Every application for a license to keep a private hospital shall be made in writing to the Provincial Secretary and shall contain the following particulars:—

- (a) The full name, place of abode and occupation of the applicant;
- (b) A statement of the estate or interest of the applicant in the house in respect of which the license is desired;
- (c) A statement of the number of patients proposed to be received in the hospital and in each room or apartment of the hospital;
- (d) A description of the situation of the hospital;
- (e) A plan of the hospital on a scale of not less than an eighth of an inch to the foot;
- (f) A statement of the length, breadth and height of every room and apartment in the hospital including operating and subsidiary rooms;
- (g) A statement of the rooms or apartments to be used exclusively by patients, and of those to be used exclusively by the licensee or the superintendent of the hospital or by persons other than patients;
- (h) A statement of the sanitary arrangements, ventilation, heating and water supply of the hospital;
- (i) A full description of the fire escapes of the hospital and the facilities provided for use in case of fire;
- (j) A statement as to the classes of patients proposed to be received into the hospital.

(2) Every such application shall be verified by the statutory declaration of the applicant and shall be accompanied by a fee of \$5. 2 Geo. V. c. 85, s. 28.

Verification
of appli-
cation.
Fee.

29.—(1) No license shall be granted unless the house and its location with regard to adjoining dwelling houses are approved by the Inspector as suitable for the purposes indicated in the application, and the Provincial Secretary is satisfied as to the character and fitness of the applicant. 2 Geo. V. c. 85, s. 29; 3-4 Geo. V. c. 87, s. 1, *part*.

Approval.

(2) The approval of the Inspector as to the location of the house shall not apply to a house used as a private hospital on the 15th day of April, 1913, so long as it continues to be used for that purpose. 3-4 Geo. V. c. 87, s. 1, *part*.

30.—(1) Every licensed hospital shall according to the tenor of the license issued in respect thereof be either—

Kinds of
licensed
private
hospitals.
Maternity.

(a) A licensed maternity hospital; or

(b) A licensed medical and surgical hospital; or

Medical.

(c) A hospital licensed both as a maternity and as a medical and surgical hospital.

Maternity
and medical.

(2) Every license shall state the maximum number of patients who may be received and lodged in the hospital at any one time.

Number of
patients.

(3) A license may be limited to the reception of any particular class or classes of patients.

Limitation
of patients.

(4) Every license shall continue in force until revoked in accordance with this Act. 2 Geo. V. c. 85, s. 30.

Duration of
license.

31. A licensee shall, in the month of October in each year, pay to the Provincial Secretary a fee of \$5 for the continuance of the license. 2 Geo. V. c. 85, s. 31.

Annual fee.

32. When a license has been issued to two or more persons jointly, and during the currency thereof any of those persons dies leaving the other or others surviving, the license shall remain in force and have the same effect as if granted to the survivor or survivors. 2 Geo. V. c. 85, s. 32.

Continu-
ation of
license
notwith-
standing
death of one
of joint
licensees.

33. On the application in writing signed by the licensee and by any person to whom he desires that his license shall be transferred, the Provincial Secretary may, by indorsement on the license or otherwise in writing, transfer the license to that person, and thereupon that person shall become the licensee of the hospital with the same rights and obligations as if the license had been granted to him. 2 Geo. V. c. 85, s. 33.

Transfer of
license upon
application
of licensee.

Transfer or
revocation
of license
upon death
of licensee.

34.—(1) If the licensee or the sole surviving licensee dies the Provincial Secretary may, by endorsement on the license or otherwise in writing, transfer the license to any person nominated by the executors or administrators of the deceased licensee, and that person shall thereupon become the licensee of the hospital with the same rights and obligations as if the license had been granted to him:

Continuation
of license
until
revoked.

(2) Unless and until the license is revoked under this section or under section 35 the hospital shall continue to be a licensed hospital, and the superintendent and other officers shall be deemed for the purposes of this Act to continue in office in the same manner as if the licensee were still living.

Revocation
under such
circumstances.

(3) If the license is not transferred under the authority of this section within two months after the death of the licensee or of the sole surviving licensee the Provincial Secretary may by writing under his hand revoke the license, and notice of the revocation shall be published in the *Ontario Gazette*. 2 Geo. V. c. 85, s. 34.

Revocation
of license.

35.—(1) A license may at any time be revoked by the Provincial Secretary, if

Default in
payment of
license fee.

(a) The licensee has made default for three months in paying the annual license fee;

Conviction
of offences
against
Act.

(b) The licensee or superintendent has been convicted of an offence against this Act or of any offence punishable by imprisonment, or

Premises
unsanitary.

(c) In the opinion of the Inspector the hospital premises are unsanitary or without proper fire protection, or the hospital is managed or conducted in such a manner that the revocation of the license is required in the public interest.

Notice to
licensee.

(2) Before a license is revoked the Provincial Secretary shall give notice to the licensee or superintendent of the ground on which it is proposed to revoke the license, and shall afford to him an opportunity of showing cause why the license should not be revoked.

Service of
notice.

(3) Any such notice may be given to the licensee or superintendent, either personally or by leaving it at the hospital with an officer or employee thereof, and the revocation shall be effected by writing under the hand of the Provincial Secretary, and notice of the revocation shall be published in the *Ontario Gazette*.

Decision of
Provincial
Secretary
final.

(4) The decision of the Provincial Secretary as to the revocation of a license shall be final and conclusive and shall not be questioned in any Court or in any proceeding. 2 Geo. V. c. 85, s. 35.

36.—(1) No structural alteration of or addition to any licensed hospital shall be made until a plan of the proposed alteration or addition has been given to and approved by the Inspector. Approval by Inspector of structural alterations.

(2) If any alteration or addition is made in breach of this section the licensee shall incur a penalty not exceeding \$100. 2 Geo. V. c. 85, s. 36. Penalty.

37.—(1) For every licensed hospital there shall at all times be a superintendent resident on the premises who may be the licensee himself, if qualified under this section, and shall be either a legally qualified medical practitioner or a trained graduate nurse. Superintendent of licensed hospital.

(2) No person other than a licensee shall be appointed as the superintendent until his name and qualification have been notified to the Inspector and he has approved of the appointment. Inspector's approval.

(3) During the temporary absence, illness or incapacity of the superintendent the licensee may, without notice to the Inspector, appoint as acting superintendent any other person qualified in accordance with this section; and every person so appointed shall, while he so acts, be deemed for the purposes of this Act to be the superintendent, but he shall not so act, whether under the same or successive appointments, for a longer continuous period than four weeks. Acting superintendent.

(4) If at any time a licensed hospital is used as such while there is no duly qualified superintendent, or while the superintendent is not resident on the premises, the licensee shall incur a penalty not exceeding \$25 for every day during which it is so used. Penalty.

(5) The Provincial Secretary may, because of special circumstances and on such terms and conditions as he thinks fit, by warrant under his hand temporarily exempt any licensed hospital from the requirements of subsection 1. Exemption by Provincial Secretary.

(6) Any exemption so granted may be withdrawn by him by notice under his hand and delivered to the licensee of the hospital. 2 Geo. V. c. 85, s. 37. Withdrawal of exemption.

38.—(1) In every licensed hospital there shall be kept a Register of Patients in which shall be entered the following particulars:— Register of patients.

(a) The name, age and usual place of abode of every patient, and date of his admission into the hospital; Name, etc., of patients.

(b) The name of the medical practitioner, if any, attending each patient; Name of medical practitioner.

Date of
patient's
departure
or death.

(c) The date at which each patient leaves the hospital or, in the event of the death of a patient in the hospital, the date of his death;

Other
particulars.

(d) Such other particulars as may be prescribed by the Inspector.

Entry of
particulars.

(2) Such particulars shall be entered in the Register as soon as practicable after the occurrence of the act or event to which the entry relates.

Penalties.

(3) Every person who knowingly makes in the Register an untrue entry shall incur a penalty not exceeding \$200.

Idem.

(4) Every licensee who fails to make or cause to be made any entry in the Register required by this Act to be made therein shall incur a penalty not exceeding \$50. 2 Geo. V. c. 85, s. 38.

Inspection
by Inspector.

39. Every licensed hospital and the Registers thereof shall at all times be open to inspection by the Inspector. 2 Geo. V. c. 85, s. 39.

Power of
Inspector
to enter
unlicensed
premises.

40. If the Inspector believes or suspects that any house is used as a private hospital without being licensed he may at any time and from time to time by himself, or by any person authorized by him, enter and inspect such house and every part thereof; and any person who prevents or obstructs or attempts to prevent or obstruct any such entry or inspection shall incur a penalty not exceeding \$200. 2 Geo. V. c. 85, s. 40.

Penalty.

Use of
licensed
hospitals.

41.—(1) A licensed hospital shall not be used for any purpose other than the purposes in respect of which the license is granted and purposes reasonably incidental thereto.

Penalty.

(2) If a licensed hospital is used in any manner contrary to the provisions of this section the licensee and superintendent shall severally incur a penalty not exceeding \$25 for every day during which it is so used. 2 Geo. V. c. 85, s. 41.

Reception in
licensed hos-
pital of
more than
authorised
number of
patients.

42. If at any time a licensed hospital is used for the reception of a greater number of patients than is permitted by the license, or for the reception of any patient of a class not authorized by the license, the licensee and the superintendent shall severally incur a penalty not exceeding \$25 for every day during which it is so used. 2 Geo. V. c. 85, s. 42.

Penalty.

Who to be
deemed the
occupier for
certain
purposes.
Rev. Stat.
c. 218.

43.—(1) The Superintendent of a licensed hospital shall be deemed to be the occupier of the house for the purpose of giving notice under *The Public Health Act* of any patient found or suspected to be suffering from any communicable disease.

(2) The superintendent of a licensed hospital shall be deemed to be the occupier thereof for the purpose of giving notice or information under *The Vital Statistics Act* of the death of any person or of the birth of any child in the hospital. 2 Geo. V. c. 85, s. 43. Idem.
Rev. Stat. c. 49.

44. The penalties imposed by or under the authority of this Act shall be recoverable under *The Ontario Summary Convictions Act*. 2 Geo. V. c. 85, s. 44. Recovery of penalties.
Rev. Stat. c. 90

45.—(1) In any prosecution for an offence against this Part the burden of proving that any person residing in a house and there receiving medical treatment is not a patient within the meaning of this Act shall be upon the person charged. Burden of proof in prosecutions.

(2) In any prosecution for an offence against this Part the burden of proving that a license is in force, and of proving its terms, and that any person apparently having the charge, control or management of the hospital is not the superintendent thereof within the meaning of this Act shall be upon the person charged. 2 Geo. V. c. 85, s. 45. Idem.

CHAPTER 301.

An Act to provide for the Inspection of Provincial and other Hospitals, Charities, Prisons and Court Houses.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Prisons and Public Charities Inspection Act*. 3-4 Geo. V. c. 88, s. 1.

Interpretation.

2. In this Act,

"Inspector."

(a) "Inspector" shall mean an Inspector of Prisons and Public Charities appointed by the Lieutenant-Governor in Council under the authority of this Act;

"Minister."

(b) "Minister" shall mean the member of the Executive Council charged for the time being with the administration of this Act;

"Regulations."

(c) "Regulations" shall mean regulations made by the Lieutenant-Governor in Council under the authority of this Act or any Act for which this Act is substituted. 3-4 Geo. V. c. 88, s. 2.

Regulations and their amendment.

3. The regulations heretofore made for the government of provincial hospitals for the insane, private sanatoria for the treatment of mental diseases, sanatoria for consumptives, public and private hospitals, refuges, orphanages and infants' homes, and the common gaols and reformatories and other prisons, are confirmed and shall continue in force until altered or repealed by regulations made in pursuance of this or any other Act of this Legislature. 3-4 Geo. V. c. 88, s. 3.

Appointment of Inspectors.

4. The Lieutenant-Governor in Council may appoint three persons to be inspectors of the institutions mentioned in section 3, each of whom shall be designated an Inspector of Prisons and Public Charities. 3-4 Geo. V. c. 88, s. 4.

Duties of Inspector.

5. The Lieutenant-Governor in Council may designate what public and other institutions requiring inspection are to be inspected by each Inspector, and may define the duties of the Inspectors. 3-4 Geo. V. c. 88, s. 5.

6.—(1) One of the Inspectors designated by the Lieutenant-Governor in Council shall be a corporation sole by the name of "The Inspector of Prisons and Public Charities," and by that name he and his successors in office shall have perpetual succession and may sue and be sued.

(2) Sections 35 to 46 of *The Hospitals for the Insane Act* shall apply to such Inspector.

"Inspector of Prisons and Public Charities."
Duties and powers.
Rev. Stat. c. 295.
Succession.

(3) In case of the death, removal or resignation of such Inspector all the rights, powers, duties, obligations, money or estates under those sections, or under anything done in pursuance thereof, which are vested in him or belong to him, either by his name of office or in his corporate capacity, at the time of his death, removal or resignation shall thereupon become vested in and shall belong to the Inspector designated or appointed by the Lieutenant-Governor in Council as his successor. 3-4 Geo. V. c. 88, s. 6.

7. Except as in the next preceding section provided, where the Inspector of Prisons and Public Charities is referred to in any Statute by that or any other name the reference shall be held to apply to that one of such Inspectors to whom, under an order of the Lieutenant-Governor in Council, the duty or power to which the reference relates belongs. 3-4 Geo. V. c. 88, s. 7.

References in Statutes to Inspector.

8.—(1) One of the Inspectors shall visit and inspect every gaol, refuge, reformatory and prison or other place in Ontario, kept or used for the confinement of persons, once in each year or more frequently if necessary, or if so directed by the Minister; and the Inspector may examine any person holding any office or receiving any salary or emolument in any such place, and call for and inspect all books and papers relating to it, and may inquire into all matters concerning the same.

Inspectors' duties as to visitation.

(2) Every Inspector shall make a separate and distinct report in writing to the Minister of the state of every place of confinement visited by him. 3-4 Geo. V. c. 88, s. 8.

Report to Minister.

9. Where an Inspector deems it expedient to institute an inquiry into the management of any institution subject to his inspection or into any matter in connection therewith, or into the truth of any return made by any officer of the institution, and deems that any officer of the institution or any other person should give evidence before him on oath, the Inspector shall have the same power to summon such officer or other person to attend as a witness, to enforce his attendance and to compel him to produce documents and to give evidence as any court has in civil cases. 3-4 Geo. V. c. 88, s. 9.

Power of Inspector in instituting inquiries into institutions subject to his inspection.

10.—(1) The Lieutenant-Governor in Council may make regulations respecting the common gaols and relating to

Power of Lieutenant-Governor to make regulations.

- (a) the maintenance of prisoners in regard to diet, clothing, bedding, and other necessities;
- (b) their employment;
- (c) medical attendance;
- (d) religious instruction;
- (e) the conduct of the prisoners, and the restraint and punishment to which they may be subjected;
- (f) the treatment and custody of the prisoners generally, and the internal economy and management of the gaol; and
- (g) all such other matters connected with the maintenance, government and control of gaols as may be deemed expedient.

Special regulations by municipal councils.

(2) Nothing in this section shall prevent a municipal council from making such special regulations, not inconsistent with this Act or the regulations, as the peculiar circumstances of any gaol maintained by it, and the locality in which it is situate may in its opinion require. 3-4 Geo. V. c. 88, s. 10.

Inspection of public Hospitals for the insane and epileptics.

11. One of the Inspectors shall at least three times in every year visit and inspect every provincial hospital for the insane and the Hospital for Epileptics and

- (a) examine into the manner in which it is conducted;
- (b) examine the reports made to him by the medical superintendent and bursar;
- (c) inquire as to the observance of the regulations therein; and
- (d) ascertain if the clinical records of all patients are properly kept. 3-4 Geo. V. c. 88, s. 11.

Inspector's annual report.

12. The Inspector shall make an annual report to the Minister upon the manner in which any training school for nurses in any such hospital is conducted. 3-4 Geo. V. c. 88, s. 12.

Regulations respecting provincial hospitals.

13. The Lieutenant-Governor in Council may make regulations respecting provincial hospitals for the insane as to

- (a) the government and management thereof;
- (b) the duties of the officers, servants, and employees; and
- (c) the establishment, management and control of any school for nurses therein. 3-4 Geo. V. c. 88, s. 13.

14.—(1) An Inspector, at least once in every year and oftener if required by the Minister, shall visit, examine and report to him upon the state, management and condition of every hospital or other charitable institution supported, in whole or in part, by grant of public money, provincial or municipal, and of every private hospital, and make such suggestions as he may deem necessary or proper for the better government and management thereof. Report of the management, etc.

(2) If the Inspector is refused admission into any such hospital or other institution he shall forthwith report such refusal to the Minister with the circumstances attending the same. 3-4 Geo. V. c. 88, s. 14. In case admission refused.

15. An Inspector, at least once in every year and oftener if required by the Minister, shall visit, examine and report to him upon the state and management of every private sanitarium for the treatment of mental diseases, licensed under the provisions of *The Act respecting Sanitaria for Mental Diseases*, and upon the condition of its inmates; and the Minister after the receipt of such report may suspend or revoke any license granted under that Act. 3-4 Geo. V. c. 88, s. 15. Report on private sanatoria. Rev. Stat. c. 296. Revocation of license.

16. If upon the inspection of a provincial hospital for the insane the Inspector finds that, according to the report of the Superintendent, any patient has sufficiently recovered to be cared for by his friends, or that his mental condition is due to senility, and his conduct is recorded as quiet and harmless, and that he is a proper subject for care in a house of refuge, the Inspector may order such patient to be removed to a house of refuge in the county from which he was originally admitted; and the board of management and superintendent of such house of refuge shall admit such patient to the house of refuge and maintain him therein. 3-4 Geo. V. c. 88, s. 16. Removal to House of Refuge.

17.—(1) Every Inspector shall make to the Minister a written report of every inspection of any institution visited by him. Inspector's report.

(2) A copy of the report shall be transmitted by the Inspector to the superintendent or other head of the institution to which it relates. 3-4 Geo. V. c. 88, s. 17. Copy for Superintendent, etc.

18. Every Inspector shall, as soon as may be after the 31st day of October in every year, make to the Minister a full and accurate report on every institution inspected by him during the preceding year, together with such suggestions for the improvement of the same as he may deem necessary or expedient; and such report shall include the following particulars:— General Annual Report. Suggestions for improvements. Particulars.

Prison or reformatory.

(a) as to a prison or reformatory,—

- i. a copy of the warden's or superintendent's report to the Inspector;
- ii. copies of the chaplain's reports to the Inspector,
- iii. a copy of the surgeon's annual report;
- iv. a return of the names, ages, country, calling and offences of the prisoners received during the year, and the county or district from which each came;
- v. a return of the names, ages, callings and offences of the prisoners who died in the prison or reformatory during the year, and the county or district from which each came;
- vi. a similar return of the prisoners liberated during the year on parole or upon the expiration of the term for which they were sentenced;
- vii. a similar return of the prisoners who were pardoned during the year;
- viii. a tabular statement showing the number of prisoners at the date to which the last previous annual report was made up, the number received during the year, the number discharged, the number then in confinement and the average number during the year;
- ix. a balance sheet of the financial affairs of the institution on the 31st day of October of the year reported upon;
- x. a balance sheet for the past year, showing the sum on hand on the 31st day of October, the money received during the year from the Province towards the maintenance of the prison or reformatory, the amount received for prison labour, and also on all other accounts during the year, showing separately the sums paid for food, bedding, clothing and hospital stores for the prisoners, salaries of officers, fuel and light, the erection of new buildings and repairs, the support of the stable, and all other items of expenditure, and the cash on hand at the close of the year;
- xi. a statement of all debts due by the institution, showing the names of the persons to whom each sum is due, also showing the debts, if any, due to the institution with the amount and nature of each debt;

- xii. an inventory of all the property, estate and effects of the institution;
 - xiii. an estimate of the receipts and expenditures for the current year;
 - xiv. a statement showing in what manner the prisoners were employed on the 31st day of October of the year reported on, and the average number at each trade or occupation during the year;
 - xv. such other particulars as may be required by the Regulations or by the Minister;
 - xvi. a tabulated statement from each gaol showing the number of persons committed, the crimes and offences for which they were committed and such particulars in regard to gaol expenditures and other matters relating to the gaol as the Minister may require;
- (b) as to the provincial hospitals for the insane and the Insane and Epileptics. Hospital for Epileptics;
- i. the superintendent's report to the Inspector;
 - ii. statistical tables indicating the number of patients under treatment, together with such other particulars as may furnish information regarding the care and treatment of patients, or as the Minister may require;
- (c) as to every public and private hospital, refuge, orphanage and infants' home, Public and private hospital, refuge, orphanage, infants' home.
- i. the last annual return for each institution made under *The Hospitals and Charitable Institutions Act*; Rev. Stat. c. 300.
 - ii. statistical tables indicating for comparison the expenditures under the different headings for maintenance, and indicating the daily per capita cost;
 - iii. tables showing the amount contributed towards the support of each institution by
 - (a) private benefactors,
 - (b) municipal corporations,
 - (c) the Government. 3-4 Geo. V. c. 88, s. 18.

19. The provisions of this Act as to the inspection of gaols and the provisions of *The Gaols Act* as to their construction and repair shall, so far as may be, apply to court houses. Court houses. Rev. Stat. c. 298.

3-4 Geo. V. c. 88, s. 19.

Assistance
to Inspect-
tors.

20. The Minister may authorize such person as he thinks fit to perform, under the supervision of an Inspector or otherwise as the Minister may direct, any of the duties of an Inspector; and in the performance of the duties such person may exercise the like powers and authorities as are possessed by the Inspector. 3-4 Geo. V. c. 88, s. 20.

Limitation
of actions.

21. All actions and prosecutions against any person for anything done in pursuance of this Act shall be commenced within six months after the fact committed and not afterwards. 3-4 Geo. V. c. 88, s. 21.

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